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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड(ii) PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ राज्य क्षेत्र प्रशासनों को छोड़कर)
केन्द्रीय प्राधिकारियों द्वारा जारी किये गए सांविधिक आदेश और अधिसूचनाएं

**Statutory Orders and Notifications issued by the Ministries of the Government of India
(other than the Ministry of Defence) by Central Authorities
(Other than the Administrations of Union Territories)**

ELECTION COMMISSION OF INDIA

New Delhi, the 15th December, 1977

S.O. 397.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgement of the High Court of Kerala at Ernakulam dated 4 November, 1977 in Election Petition No. 9 of 1977.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

The Honourable Mr. Justice N. D. P. Namboodiripad.
Friday, the 4th November, 1977

Election Petition No. 9 of 1977

PETITIONER :

M. Ramanna Rai. Advocate, Kasaragode.
By Advs. M/s. K. Sudhakaran and L. Gopalakrishnan
Poti.

RESPONDENT :

Ramachandran Kadannapalli alias Kadannapalli
Ramachandran, M. P. Lok Sabha, New Delhi.

By Advs. M/s. C. K. Sivasankara Panicker, M. Ramachandran A. C. Jose and U. K. Ramakrishnan.

This Election Petition having been heard on 31-10-1977 in the presence of M/s. K. Sudhakaran and L. Gopalakrishnan Poti Advocates for the petitioner and of M/s. C. K. Sivasankara Panicker, M. Ramachandran, A. C. Jose and U. K. Ramakrishnan Advocates for the Respondent the Court on 4-11-1977 delivered the following:—

JUDGMENT

The petitioner and the respondent were the duly nominated candidates, who contested from the Kasaragod Parliamentary constituency in the general elections held on the 19th March, 1977, to the Lok Sabha. According to the official announcement the petitioner obtained 2,22,263 votes, while the respondent secured 2,27,305 votes, 13,628 votes were declared invalid. According to the petitioner the election of the respondent is liable to be set aside due to the various corrupt practices set out in the petition.

2. One C. L. Mahin, who is the Government Pleader and Additional Public Prosecutor in the Subordinate Judge's Court and the Munsiff's Court, Kasaragod, functioned as the Chairman of the respondent's election committee and he was the Chief Election Agent of the Kasaragod Assembly Constituency, which was one of the assembly constituencies in the Parliament Constituency of Kasaragod. The respondent's party was styled as "Aikya Mannemi" (United Front) and the petitioner's party as "Prathipakshe Mannemi" (Opposition Front). Sri C. L. Mahin issued notices as chairman of the United Front, Kasaragod with the consent of the respondent. Annexure 1 is alleged to be one such notice. Misusing his position as Government Pleader and a party member of the United Front, the

aforesaid Sri Mahin procured for the respondent the assistance of the Circle Inspector of Police and the Sub Inspector of Police, Kasaragod for furthering prospects of the respondent's election. The modus operandi at the canvassing was that when Mr Mahin entered the house of an elector, the Circle Inspector of Police accompanied him upto the doorsteps and posted himself outside suggesting to the voters that the Circle Inspector has accompanied Sri Mahin. That method was pursued in several places especially in Amey and Nullipadi on the 16th and 17th of March, 1977. Sri Mahin threatened the people that he will use his influence to invoke COFEPOSA and MISA against those who did not work and vote for the respondent. With that threat Mahin caused the resignation of certain members of the committee formed for the petitioner. Sri K. Suresh, Nullipadi is one who was so threatened by the said Mahin accompanied by the Circle Inspector. A seminar was conducted at the instance of the Minister for Harijan Welfare. The respondent insisted that he should be the president of the public meeting conducted under the auspices of the Harijan Welfare Department and the petitioner should not be allowed to participate in the meetings. In the meeting several executive officers like the Chief Publicity Officer, Harijan Welfare, Trichur, the Assistant Educational Officer, Kasaragod, the Taluk Welfare Inspector, Kasaragod, the District Welfare Officer, Cannanore, the Assistant Collector, Kasaragod, the Deputy Police Superintendent, Kasaragod, etc. were the speakers. All the members of the Scheduled Caste and Scheduled Tribes in the aforesaid parliament constituency were invited offering them Rs. 6 for attending the function. While the respondent was occupying the chair the various gazetted officers of the Harijan Welfare Department and the Police Departments sat with him in the platform. The entire arrangement of the meeting was to canvass votes for the respondent. The Chief Public Relations Officer, Harijan Welfare, Trichur, the Taluk Welfare Inspector, Kasaragod and the District Welfare Officer, Cannanore, spoke on behalf of the Department and asked the members of the Scheduled Caste and Scheduled Tribes to support the party of Smt. Indira Gandhi. The officers of the Harijan Welfare Department made various promises and threats in the matter of voting. The gazetted officers and other officers, who sat with the respondent on the dais were the authorities for allotting grants, domestic animals, agricultural implements, etc. to the members of the Scheduled Caste and Tribes. They openly canvassed votes for the respondent. A notice marked as Annexure (2) was printed and published. One Lakshminarayan Rao, Health Inspector, Municipal Council, Kasaragod, who was transferred to the Calicut Corporation for proved misconduct was retransferred to the Kasaragod Municipality at the instance of the respondent. The procedure followed in that respect is set out in sub-paragraph (c) of the petition. One Dr. A. M. Naik, Government Medical Officer, Kumbhla, was persuaded to take leave from Kumbhla by the respondent as the said officer has great influence in his native place, viz., Adoor. The purpose was to secure the assistance of that officer. The respondent promised the Jumayat Committee of the mosque to obtain electric connection to the mosque on priority basis. The respondent caused such favour to be shown to the mosque and the thanks expressed by the mosque at the prayer meeting on 18-3-1977 is extracted in sub-paragraph (E) of the petition. The Government Rural Dispensary at Chattanchal was being run in a building belonging to one T. K. Abdul-khader. Since the respondent wanted that building he caused the removal of that hospital to an incomplete building by influencing the District Collector and the District Medical Officer. The District Collector Cannanore, presided over the meeting in which the opening of the dispensary in the new incomplete building was inaugurated by the Minister Shri Balakrishnan. The Taluk Committee of the Indian Muslim League, Kasaragod, issued a letter to all mosques. It was a deliberate attempt to promote enmity and hatred between the citizens of India dividing them as Muslims and non-Muslims. The petitioner and his associates were represented as enemies of Muslims. The petitioner challenges the results of the election on the ground of the irregularities in the matter of counting of votes. The counting agents of the petitioner did not get sufficient opportunity to verify the counting of each officer. The majority of the officers, who conducted the counting are members of the Joint Council, an organisation, which openly supports the United Front in Kerala. Some of the active members of the Congress Party were counting officers. There was wide disparity between the number of valid votes polled in the various assembly constituencies and the number of votes in the

parliament constituency. There was confusion on account of over-crowding and disturbances due to the lack of space where the counting was done. Ballot papers for the parliament constituency were printed in private presses. In some of the places even before the date of polling ballot papers were found and the irregularity was brought to the notice of the Election Commission. The agents of the petitioner were not allowed to accompany the ballot boxes. The counting authorities violated the provisions of the Representation of the People Act, 1951 (for brevity the 'Act') and the Rules thereunder. The presiding officer at Bekala Poling Station himself put the seal on several ballot papers. Two of such instances were found out and the party workers belonging to both the candidates demanded a re-poll. It was discovered during the counting that the ballot papers used for recording votes for Lok Sabha differed in material and colour. The prayer in the petition is to declare the election of the respondent as void on the ground of corrupt practices committed and that the results of the election have been materially and substantially affected by the corrupt practices committed by the agents interested or connected with the respondent and also for the non-compliance of the provisions of the Act.

3. The respondent filed a detailed written statement traversing the allegations made by the petitioner. The petition was not properly presented and is liable to be dismissed on that ground. The petition was not filed within the time prescribed under section 81 of the Act. In view of article 103 of the Constitution the High Court has no jurisdiction to entertain this petition because the election is sought to be set aside on the ground of corrupt practices as well. In view of the enactment of articles 102 and 103 of the Constitution of India, the provisions of Sections 98, 99 and 100 of the Act are no longer law in force and they were repealed by the articles 102 and 103 of the Constitution. In any event sections 98, 99 and 100 of the Act are ultra vires of articles 102 and 103 of the Constitution. In view of articles 131(A) and 228(A) of the Constitution this court has no jurisdiction to consider the constitutional validity of sections 98, 99 and 100 of the Act. The respondent secured 2,27,305 votes, while the number of votes polled in favour of the petitioner was 2,22,263. 13,307 ballot papers were rejected as invalid. The corrupt practices alleged in the petition are denied. Shri C. L. Mahin is not in the service of the Government and he does not come in any of the categories of the government servants enumerated in clauses (a) to (g) of section 123(7) of the Act. It is true that Shri Mahin is a member of the Kerala Pradesh Congress Committee and he was the additional Government Pleader and Additional Public Prosecutor, Kasaragod with effect from 1-12-1976. As a Government Pleader he is not paid any salary or retainer by the Government, but only the prescribed fee for cases in which he is engaged by the Government is paid. Shri Mahin was at no time the chairman of the respondent's election committee. The respondent did not procure or obtain the assistance of Sri Mahin. The chairman of the election committee was Sri I. Rama Rai, Vice President of the District Congress Committee. Annexure (1) was not published with the consent of the respondent. Sri Mahin did not procure the assistance of the Circle Inspector of Police, Kasaragod and the Sub Inspector of Police, Kasaragod for furthering the prospects of the respondent's election. The respondent, at any rate, had no knowledge regarding the conduct of Shri Mahin. The police officers did not accompany Sri Mahin when the latter went for election canvassing. The respondent has not given his consent to Shri Mahin for any canvassing. Shri Mahin has not threatened any person to work for the respondent. The objections raised on the basis of Sri Mahin's interference in the election have no basis at all. The allegations in paragraph 3(a) of the election petition are vague in general. Sri Mahin did not work for the respondent with the knowledge and consent of the respondent. The alleged threat of Shri K. Suresh, Nullippadi by Shri Mahin is denied. Neither the respondent nor his agent or any other person with his consent had obtained or procured any assistance from Sri Mahin. The averments in paragraph 3(B) of the petition are denied. The respondent has no connection in the organisation and conduct of the seminars alleged in the petition. The respondent was requested to preside over the public meeting held on the Harijan Day before he filed his nomination paper. The respondent remained there only for a few minutes. The respondent has no information or knowledge whether Rs. 6 was paid to each

participant. The respondent and his agents never attempted to procure the assistance of the government officials. The respondent did not preside over the meeting. There was no offer of any gift or other illegal gratification to any person for casting votes in favour of the respondent. The respondent does not at all know Sri Lakshminarayana Rao, Health Inspector, Kasaragod, and the respondent is not aware of the transfer of Sri Rao. The respondent has no connection with Sri Rao. The respondent has nothing to do with the transfer of Shri Lakshminarayana Rao. The respondent has never given his consent to Shri Rao to canvass votes in favour of the respondent. The respondent had never even heard of Mr. Lakshminarayana Rao before the election. The respondent does not know Dr. A. M. Nayak referred to in paragraph 3(d) of the petition. Dr. Nayak did not canvass any votes for the respondent. The respondent had not promised the Jumayath committee of the mosque at Arikkadj Village to obtain any electric connection for the mosque. The respondent did not influence the Hon'ble Minister for Electricity to sanction the electric connection to the mosque at Arikkadj village. The respondent is not aware of the meeting held on 18-3-1977. The respondent has not attended the inauguration of the rural dispensary at Chattanchal. The respondent has no knowledge, nor did he give his consent to the publication of the notice alleged to have been published by the Taluk Muslim League Committee. In any event, the said notice does not amount to any undue influence. There was no request to voters to vote on the basis of religion, caste, or community. There was no reading of any letter in the mosque as set out in paragraph (G) of the petition. The counting of votes was done in accordance with law. The averments in paragraph 4 of the petition are vague and hypothetical. All facilities were given to the election agents of the contesting candidates. The statements contained in paragraphs 5 to 9 of the petition are vague and untrue. The rules relating to the printing of ballot papers were complied with. The rules regarding the safe custody of the ballot papers were also complied with. The ballot boxes in all the polling booths were duly sealed. The petition is not in compliance with Rule 94A of the Rules. The petitioner is not entitled to any reliefs.

4. After discussing with both sides the following issues were framed :

1. Is the petition maintainable in view of the reasons stated in the written statement of the respondent ?

2. Whether the election of the respondent is vitiated by corrupt practices as alleged in the petition ?

3. Regarding reliefs and costs.

5. Issue No. 1. The maintainability of the petition is challenged by the respondent on the ground that in view of the enactment of articles 102 and 103 of the Constitution of India the provisions of sections 98, 99 and 100 of the Act is no longer in force and they were repealed by articles 102 and 103. This question has been considered by me in the decision reported in Jaffar Khan v. Musthaffa (1977 K. L. T. 602) wherein I have held that this court has jurisdiction to try the election petition. Hence I find that the petition is maintainable.

6. Issue No. 2. The petitioner gave evidence as P.W. 17 in support of the allegations made in the petition regarding the corrupt practices alleged to have been committed by the respondent in the election. P.W. 17 deposed as follows: Q By Court "E Corrupt Practicesil eathenkilum nerittariyamo? Ans." "C. L. Mahinum eathrukakshiyum Kudi oare jecpil sancharikkunnatu neril kandittundu. Bakkiyullathinepatti direct knowledge illa". Consequently, the question arising for decision is whether the other evidence available in the case establishes the corrupt practices set out in the petition.

7. The different items of corrupt practice relied on by the petitioner may be considered independently.

(a) One group of allegations relates to the conduct of one C. L. Mahin, who was at the relevant period the Additional Government Pleader and Additional Public Prosecutor at Kasaragod. He was examined as P.W. 9. One ground alleged against P.W. 9 is the publication of Ext. 67, a leaflet containing an appeal to the

electorate for casting their votes in favour of the respondent to the Parliament and one Ibrahim contesting from the concerned Assembly constituency. P.W. 8 was examined to prove that Ext. P7 was printed and published by P.W. 9. He admitted that Ext. P7 was printed and published by him as the chairman of the election committee of the United Front, which consisted of the political parties Congress, Muslim League, P.S.P. and C.P.I. P.W. 9 also admitted that he spoke in support of the Congress candidates in two or three meetings. The allegation regarding the participation of P.W. 9 in the election campaign of the respondent is made in such a way as to suggest that a corrupt practice within the meaning of section 123(7) of the Act has been committed. P.W. 9 does not come in any one of the category of officers mentioned in section 123(7). P.W. 9 is not paid any retainer and he gets only the remuneration at scheduled rate for the particular case he is asked to conduct on behalf of the Government. The petitioner also does not seriously canvass for the position that P.W. 9 is an officer of the government for the purpose of section 123(7) of the Act. The particular argument advanced before me in this respect is that since P.W. 9 was holding a responsible position as Additional Government Pleader and Additional Public Prosecutor he was in a position to influence the voters through police officers and it is to highlight this aspect that a second allegation is made as against P.W. 9. It is averred in the petition that P.W. 9 canvassed votes with the assistance of police officers. The practice was to go in a jeep with the Circle Inspector and Sub Inspector of Kasaragod to the house of a voter. The police officers will just wait on the road, while P.W. 9 would go to the house of the voter and threaten the voters there, with dire consequences if they do not vote for the respondent. He would simultaneously point out the presence of the police officers who are standing outside. It is also the case of the petitioner that certain workers of the petitioner were similarly threatened by P.W. 9. To prove this part of the petitioner's case P.W. 6 was examined. P.W. 6 deposed that on 17-3-1977 at about 8.00 P.M. P.W. 9 came to the house of this witness with the Circle Inspector and Sub Inspector. P.W. 9 pointing out the police officers threatened P.W. 6 with detention under MISA if he worked for the petitioner in this case. P.W. 6 is employed as a clerk in the Building Co-operative Society of Kasaragod. The president of that society is the petitioner in this case. P.W. 6 admitted that he was working for the petitioner publicly and that the workers of the Congress party were aware of it. Since P.W. 6 was a worker of the petitioner it is not easy to accept his testimony. If P.W. 6 was working for the petitioner publicly and if he was to be prevented from participating in any election campaign on behalf of the petitioner then certainly the respondent could have taken steps sufficiently early to silence P.W. 6. The polling was on 19-3-1977. According to P.W. 6, P.W. 9 came to his residence at about 7.00 or 8.00 p.m. on 17-3-1977. Apparently there cannot be any public canvassing on the 18th. I am not prepared to accept the evidence of P.W. 6 for holding that P.W. 9 travelled with the police officers for canvassing votes on behalf of the respondent. P.W. 9 emphatically denied the incident spoken to by P.W. 6. I find no reason to disbelieve his evidence in that respect. P.W. 17 has no personal knowledge regarding this matter and barring the evidence of P.W. 6 there is no other acceptable evidence to prove the allegation.

The publication of Ext. P7 by P.W. 9 or his participation in the election campaign of the respondent do not by themselves constitute any corrupt practice. No doubt, it is admitted by the respondent as R.W. 1 that he has travelled with P.W. 9 two or three occasions. But R.W. 1 deposed that P.W. 9 was the president of the election committee of the assembly constituency and not of the parliamentary constituency, for which the respondent had a separate election committee headed by his chief election agent one Ram Rai. The argument advanced by the petitioner is that because of the official position held by P.W. 9 he was in a position to influence the police authorities, and therefore, that probability must be taken into consideration in evaluating the evidence of P.W. 6. I do not find any material to support the inference that because P.W. 9 was an Additional Government Pleader the police authorities were at his beck and call. It shall not be forgotten that the allegation regarding corrupt practice is very similar to a criminal charge, and decision cannot be rendered upon surmises and suppositions unsupported by acceptable evidence either direct or circumstantial.

(b) Another item of corrupt practice alleged is regarding a Seminar conducted at a place called Delampadi. The allegation is that at the instance of the respondent the Hon'ble Minister for Harijan Welfare allotted funds to conduct a seminar and Harijan Welfare Day under the auspices of the Harijan Welfare Department. That Minister also belongs to the Congress Party, of which the respondent is a member. All the members of the Scheduled Castes and Scheduled Tribes in the parliamentary constituency of Kasaragod were invited to the seminar held on 27-2-1977 and each of them was paid Rs. 6. The Harijan Welfare Department clearly made it known to these persons that if they fail to attend this seminar benefits extended to them will be withdrawn. Ext. P 2 notice was printed and published. The allegations are attempted to be proved by the evidence of P.W. 1 and 13 to 16.

P.W. 1 is the Special Inspector of Koragan Welfare. Ext. P1 is the copy of a letter addressed to the Hon'ble Minister for Harijan Welfare by the President and Secretary of an Association called Delampadi Deseeya Karshaka Thozhilali Federation. It is dated 8th June, 1977, Ext. P1 contains a reference to the seminar held on 27-2-1977 and also the receipt of Rs. 2,000 from the government to meet the expenses of the seminar. P.W. 1 deposed that Annexure 2 of the petition is the notice of the seminar, that about Rs. 2,000 was spent by the government in connection with the seminar and that the delegates of the Scheduled Caste members who attended were each paid travelling allowance at the rate of Rs. 6. The seminar was conducted at the instance of one "Pourvakeshe Semrekshene Samithy".—The petitioner also is a member of that Samithi and P.W. 1 deposed that there was a similar seminar in 1976 and another seminar after the election March 1977. The fact that a seminar was conducted on 27-2-1977, that expenses were met by the Government and that the delegates were paid T.A. at the rate of Rs. 6 are not challenged by the respondent. But the question is whether the respondent had anything to do with the seminar. The evidence of P.W. 1 does not throw any light on that aspect.

P.W. 13 is the President of the Delampadi Panchayat. He deposed that he was usually invited for similar seminars, and for the seminar on 27-2-1977 he was not invited. The names of the speakers shown in Ext. P2 notice were read out to him, and he deposed that except two persons who are not known to him the others are Congress members. The suggestion put to this witness is that since most of the speakers were congressmen the seminar was practically a propaganda meeting of the Congress party. P.W. 13 did not participate in the seminar, and consequently, he cannot throw much light on that aspect. That apart, he admitted that the seminar was conducted at the instance of the "Kasarkode Pourvakeshe Semrekshene Samithy". He further admitted that he is a member of the Muslim League (Opposition) party which was working for the petitioner in the last election. Thus the evidence of P.W. 13 does not advance the case of the petitioner.

P.W. 14 is alleged to have attended the seminar. He deposed that Shri P. K. Thuppran the Taluk Welfare Inspector, Kasaragod, canvassed people to vote for the Congress. He stated that he was repeating the words spoken to by the Welfare Inspector. He admitted that there were other speakers in the seminar, but he does not remember any portion of their speeches. He was asked whether he was involved in a criminal case. Initially he denied it. But when the matter was further pursued in the cross-examination he admitted that in a criminal case taken against one Shashappan Govindan he was also detained in the lock-up for 16 days. He admitted that he was implicated in an arson case. I am not prepared to place any reliance on the evidence of this witness.

P.W. 15 deposed that he participated in the seminar held in pursuance of Ext. P2 notice. He deposed that to each delegate an amount of Rs. 6 was paid and that when the amount was paid the Welfare Inspector told the concerned recipients to vote for the Congress. According to him the delegates were paid in the 'panthal' where the meeting was held there were about 100 persons to receive the amount. P.W. 15 would go to the extent of saying that the Welfare Inspector told everyone of them to vote for the Congress. If the version of P.W. 15 is to be believed it would mean that in a public meeting held in the 'panthal'

and where several people were present the Welfare Inspector openly canvassed votes for the Congress party. It is not easy to believe that version, and I have no hesitation in rejecting his testimony.

P.W. 16 is yet another person who is alleged to have attended the seminar. He deposed that the respondent in this case presided over the meeting. A leading question was asked to him whether anything was mentioned about the votes, and he answered in the affirmative. According to him votes were canvassed on the representation that the Congress is working for the uplift of the Harijans and Girijans. He deposed that the respondent spoke for 10 or 15 minutes at about 6.15 p.m., and then left the place. The witness also is alleged to have left the place immediately. In cross-examination it was suggested to him whether he was not a polling agent of the petitioner. But P.W. 16 denied. To me he appeared to be hired witness and his version regarding the canvassing of votes for the Congress etc., cannot be believed.

As reference to earlier it is true that a seminar was conducted on 27-2-1977. Ext. P2, the notice regarding the seminar show that the seminar was conducted under the auspices of the "Kasarkode Pourvakeshe Semrekshene Samithy". P.W. 1 deposed the petitioner in this case also is a member of that Samithi. Ext. P2 shows that there were a number of speakers. The only link to connect the respondent with that function is that he was the chairman of the public meeting to be held at 4.15 p.m. The inauguration was to be done by Sri N. K. Balakrishnan, the Health Minister. The names of 10 speakers are given. It is rather difficult to accept the case of the petitioner that the seminar was a pre-conceived plan of the ruling parties for carrying on the election propaganda in their favour. P.W. 17, the petitioner deposed that he saw Ext. P2 earlier and that the details of the seminar were spoken to him by one Krishnan, a member of the Marxist Party. Ext. P2 is dated 18-2-1977. The date for filing the nomination papers for the election was on the previous day. The decision to convene the seminar must necessarily have been taken before the matter covered by Ext. P2 notice was given to the press for printing. There is no evidence in the case to show as to when exactly the decision was taken. But it is abundantly clear from the evidence of P.W. 1 as well as the contents of Ext. P2 that the seminar was conducted under the auspices of the "Pourvakeshe Semrekshene Samithy" of which the petitioner also is a member. Though the petitioner has got a complaint that he was not specially invited for the seminar, if he had any apprehension regarding the nature of the seminar he would have certainly gone for the seminar because being a member of this Samithi no special invitation is required for him. The circumstances may perhaps suggest that the petitioner had no suspicion regarding the nature of the seminar at the time when Ext. P2 was printed and published. The general meeting of the seminar was to be presided over by the respondent. R.W. 1 deposed that because he was late the meeting was presided by some officer and that he spoke only for about five minutes and left the place. It is admitted by him that he revealed to the people there that he was a candidate for the parliamentary constituency and that he was seeking their assistance. From this sole circumstance it cannot be inferred that the entire seminar was a pre-conceived plan of the ruling parties. The allegation made in the petition is as follows: "At the instance of the respondent (the Hon'ble Minister for Harijans Welfare, who is also a member of the Congress allotted funds to conduct a seminar and Harijan Day under the auspices of the Harijan Welfare Department)". "Harijenekishna Vakuppinte Abhinukhiathil". There is no evidence worth name to substantiate this contention, and as already referred to, the evidence available is to the effect that the entire seminar was arranged by the "Pourvakeshe Semrekshene Samithy". From the evidence of P.W. 1 it is further clear that this was not an isolated seminar and that a committee of the aforesaid association determined to hold three seminars and that the third seminar was, as a matter of fact, conducted after the election. The mere fact that the respondent canvassed votes in his own favour in that meeting does not mean that the officers who attended the meeting and who were responsible for conducting the seminar offered their services to the respondent in furtherance of his election for the purpose of section 123 of the Act. Again, the mere suggestion of the petitioner that most of the speakers whose names are seen printed in Ext. P2 belonged to the Congress Party cannot lead to the conclusion that the

seminar was a pre-arranged matter for the purpose of furthering the interests of the respondent. With the evidence now on record I am unable to hold that the petitioner has succeeded in proving this allegation.

(c) It is alleged by the petitioner that one Lakshminarayana Rao, who was the Health Inspector of Kasaragod was transferred to Calicut Corporation, and at the instance of the respondent that Health Inspector was retransferred to Kasaragod on 27-2-1977 against rules. The further allegation is that retransfer was for the purpose of using the influence of that Health Inspector to canvass votes for the respondent. P.W. 17 has produced certain records to show that the concerned officer was transferred from Kasaragod for misconduct. It is also proved that the said officer was retransferred to Kasaragod on 25-2-1977. But that by itself does not advance the case of the petitioner. The case put forward by the petitioner is that the Health Inspector threatened merchants and the people of the locality with dire consequences if they do not vote for the respondent. The petitioner examined P.Ws. 7 and 12 to substantiate this allegation.

P.W. 7 is the proprietor of a hotel within the Kasaragod Municipality. He deposed that some two weeks prior to the polling date Health and Food Inspector Sri Lakshminarayana Rao told him to vote for the respondent and for Sri Ibrahim, who was contesting from the Kasaragod Assembly constituency on the Congress ticket. The witness would add that as a reward for doing so the Health Inspector promised to withdraw a criminal case pending against P.W. 7 and that the Inspector threatened that if the witness did not vote fresh prosecution will be levied. According to the witness a week prior to the polling he was summoned to the residence of the Inspector where he found other merchants and hoteliers to whom also Lakshminarayana Rao insisted on giving their votes to the respondent. P.W. 7 admitted that the respondent contested in the previous election and that the witness was against the Congress then. From the evidence of P.W. 7 it could be seen that there was a criminal prosecution pending against him in the local Magistrate's court. He pleaded ignorance regarding the details of the charge, and he deposed that ultimately he pleaded guilty and a penalty of Rs. 300 was imposed. He added that he pleaded guilty because the Health Inspector advised him to do so. The evidence of this witness does not inspire confidence. It has come out from the evidence that the petitioner was the Chairman of the Municipality during the relevant period, and it is not easy to believe that the Health Inspector working in the same Municipality could have so publicly summoned merchants and other hoteliers for the purpose of canvassing votes on behalf of the respondent. I am not inclined to accept the testimony of P.W. 7. P.W. 17 deposed that P.W. 7 did not make any complaint to him and that P.W. 7 came to know of these incidents after the election.

P.W. 12 is residing in the Harijan colony at Amayi. He deposed that the Health Inspector Sri Lakshminarayana Rao came to that colony five or eight days before the polling and asked the residents there to vote for the respondent and also for the assembly candidate Shri T. A. Ibrahim. The residents of the colony are then alleged to have said that their idea was to vote for their chairman, namely the petitioner. The Health Inspector is then alleged to have said that though he was transferred from Kasaragod at the instance of the petitioner he has succeeded in coming back thereby showing that he is more powerful than the chairman. The witness further deposed that two days after that there was a meeting presided over by P.W. 9 in which the respondent and the assembly candidate Sri Ibrahim participated. P.W. 12 was originally employed as a police constable in the Mysore State. In the cross-examination the suggestion was that he was dismissed from service for misconduct. He denied the suggestion and said that he voluntarily gave up the job because he felt that a policeman's job is not good. Neither himself nor any other member of the colony complained to the chairman about the conduct of Mr. Rao, and he does not remember the date or even the week of the meeting about which he spoke in the chief examination. Even assuming that the case put forward by the petitioner regarding the activities of the Health Inspector Sri Lakshminarayana Rao is true, it is very doubtful whether that could constitute a corrupt practice because Lakshminarayana Rao

does not come within any one of the categories of officers referred to in section 123(7) of the Act. It was because of this difficulty that at the time of hearing the learned counsel for the petitioner suggested that the vitiating element in the whole episode is the influence exerted by the respondent on the Director of Municipalities for retransferring Mr. Rao to Kasaragod. There is no evidence worth the name to substantiate that allegation. It follows, therefore, that this allegation also must fail.

(d) According to the petitioner Dr. A. M. Naik, the Medical Officer attached to a Hospital at Kumbala was persuaded to take leave by the respondent. Dr. Naik accordingly took leave and worked in the Odoor village canvassing votes for the respondent. There was thus an attempt on the part of the respondent to procure votes through the assistance of a gazetted officer. Barring the interested testimony of P.W. 17, who has no personal knowledge of these matters, there is no evidence whatsoever to support this serious allegation. In fact, this allegation was not pressed at the time of hearing. The petitioner has failed to prove this allegation as well.

(e) There is a mosque at Arikkad village, and it is being administered by the Jumayath committee. It is alleged by the petitioner that to woo the Muslim electorate the respondent promised that he would obtain electric connection to the mosque. Thereafter the respondent by influencing the Minister for electricity caused connection to be given to the mosque on 15-3-1977 overlooking the prior claims of other people. In a meeting held in the mosque on 18-3-1977 there was open canvassing of votes in favour of the respondent on the basis that it was at his instance that the mosque obtained electric connection. The allegation is sought to be proved through P. Ws. 2, 3 and 10.

P.W. 2 is the Electrical Executive Engineer Kasaragod, Ext. P.3 is a communication relating to the granting of electrical connection to Arikkad Kadavath Mosque. According to the witness the applications for electric connection are grouped differently on the basis of the approximate expenditure involved in giving the connection. One category is that involving expenditure between Rs. 2500 to Rs. 10,000. There were five applicants in that group and the area where the mosque situated is No. 5 in that category. Nos. 1 to 3 are applications for domestic connections. No. 4 is a combined application for agricultural purpose and domestic purpose. He deposed that connection was given to the mosque before connection was given to applicants Nos. 1 to 4 in that group. His evidence is to the effect that there are certain rules observed in the matter of fixing the priority for giving electrical connection. Religious institutions like mosques are given priority among applicants for domestic consumption. Consequently the granting of connection to the area where the mosque is situated does not affect the priority as regards applicants 1 to 3. Applicant No. 4 mentions agricultural purpose also. P.W. 2 deposed that agricultural connection has the first priority and in that sense it can be said that it was overlooking the priority of applicant No. 4 in that category that connection was granted to the mosque. P.W. 2 deposed that he gave the connection on the basis of instructions from P.W. 3, the Superintending Engineer of Electricity. P.W. 2 concerned that if strict priority is to be observed then as between applicant Nos. 4 and 5 in that group applicant No. 4 had the priority. Thus by the evidence of P.W. 2 it would appear that there was an out of turn sanction for extension of electric lines to the mosque. P.W. 3 is the Superintending Engineer who issued Ext. P.3 instruction to P.W. 2. He deposed that at the time of issuing Ext. P.3 he had no list of applicants with him to ascertain the priority and that Ext. P.3 instruction was given because of a telephone message he received from the Chief Engineer of Electricity to expedite the extension of electric lines to the mosque. P.W.3 then sent Ext. P.4 letter to the Chief Engineer regarding that matter. It would appear that some favour was shown to the mosque area in the matter of extending the electric connection. For the purpose of this petition I am not concerned with the propriety or legality of the conduct of P.Ws. 2 and 3. The question is whether the respondent or his agent or any other person with the consent or knowledge of the respondent was responsible for the extension of electric lines to the mosque. From the evidence of P.Ws. 2 and 3 it could be seen that the order came from the Chief Engineer, who has not been examined in this case. To connect the respondent with the aforesaid matter the petitioner examined P.W. 10—P.W. 10 deposed that he is a member of the Jumayath Committee.

The wiring was completed some five years back and the mosque got actual connection only on 15-3-1977. He deposed that in a meeting the respondent promised that he will secure the electric connection if people will vote in his favour. Thereafter the respondent went to Manjeshwar accompanied by P.W. 10 and certain other people and from a Beedi company the respondent contacted the Minister for Electricity over phone and requested the Minister to expedite the extension of electric lines to the mosque. He also deposed that on 18-3-1977 after the prayer in the mosque the Mukri informed the gathering that they obtained electric connection through the influence of the respondent. In the cross-examination the witness deposed that the application for extension was given by the Kumbala panchayat and that 10 or 15 other people also got connection. He deposed that the meeting wherein the respondent spoke was held on 15-3-1977. Realising the mistake he added that the meeting after which, the phone call was made was conducted on the 4th of March. The speech was made at Arikkady whereas the phone call was made from Manjeshwar, which is about 13 miles away from Arikkady. P.W. 10 deposed that the meeting was over by about 7.30 in the evening and that he was asked to accompany the respondent and his people by one Ramappa Master. The version of this witness that he accompanied the respondent and others to Manjeshwar, and that he actually heard the respondent speaking to the Electricity Minister over phone from the office of a Beedi Company at about 9.40 in the night appears to be artificial. It is not known why P.W. 10 accompanied the respondent to Manjeshwar, 13 miles away. His evidence did not impress me, and I am not prepared to believe his version that the respondent made the promise in a meeting and then carried out the promise by contacting the concerned Minister. P.W. 10 admitted that he does not know to read or write. Even assuming that the version given by P.W. 10 is true, there is nothing on evidence to indicate that the Chief Engineer, Electricity, received any order from the Minister concerned in this matter. With this evidence on record, it is not possible to connect the respondent with the extension of electric lines to the mosque. I am not also prepared to believe the evidence of P.W. 10 to the effect that on 18-3-1977 the Mukri of the mosque spoke about the part played by the respondent in securing electric connection to the mosque. The work of the Mukri according to him is bringing water and to clean the mosque. The Mukri has not been examined, and it is doubtful whether a man of Mukri's position could have influenced the gathering in the mosque. Here again, P.W. 17 has no direct knowledge about these matters and his version is that the allegation was made on the basis of a general talk in the locality that the respondent was responsible for giving electric connection. The petitioner has thus failed to prove that the respondent had something to do with the extension of electric lines to the area where the mosque is situated and that the extension of the lines was for the purpose of securing votes for the respondent.

(f) The government rural dispensary at Chattanchal was being run in a building belonging to one T. K. Abdulkhader. A new building was in the process of construction to house the dispensary. The dispensary was shifted from the building of Abdulkhader to the newly constructed building and the Hon'ble Minister Shri N. K. Balakrishnan opened the dispensary. The allegation of the petitioner is that the construction of the new building was not completed and it was through the influence of the respondent that the dispensary was shifted from the rented building to the newly constructed building. Ext. P5 is a notice issued in connection with the opening of the dispensary and according to the petitioner in that meeting presided over by the Collector votes were canvassed for the respondent. P.W. 4 was examined to prove this allegation. He deposed that the dispensary was transferred to the new building on 4-3-1977 at a time when the construction was not completed. He proved Ext. P5 notice. The witness is alleged to have attended the meeting and heard the speeches of Health Minister Sri Balakrishnan, Collector Sri Kunhikoya and the Congress Mandalam President Sri Gangadharan. The witness deposed that the respondent did not participate in that meeting. There is thus no material to establish that the dispensary was shifted and the meeting was convened at the instance of the respondent or his agent. The suggestion to the witness in the cross-examination was that he was a worker of the Marxist party. The witness denied it. Paragraph 3(f) of the election petition dealing with this group does not specifically state that the District Collector delivered a speech canvassing votes for the respondent. The allegation is that it was at the instance of the respondent

that the Collector and the District Medical Officer arranged for the shifting of the dispensary to the unfinished new construction and that in the inauguration meeting the District Collector presided. P.W. 4 would deposes that the District Collector canvassed votes for the respondent in that meeting. It is very difficult to believe that version because even the petitioner has no such case in his petition. Just as in the case of other allegations; P.W. 17 has no personal knowledge about the whole affair. He admitted that he had election workers in that area and none of them reported to him about the aforesaid incident. I find that sufficient evidence is not available to connect the respondent or his election agent or any other person with the knowledge or consent of the respondent or his election agent with the shifting of the dispensary as well as the inauguration of the dispensary as well as the inauguration of the dispensary in the new building. The petitioner has not succeeded in proving this allegation.

(g) The respondent was a candidate put up by the ruling front consisting of the Congress, Indian Muslim League, C.P.I., etc. It is alleged by the petitioner that the Taluk Committee of the Indian Muslim League issued Ext. P6 letter to be read in various mosques situated within the constituency. Ext. P6, according to the petitioner, contains materials which are likely to promote feelings of enmity and hatred between the citizens of India. According to the petitioner the notice was read in the mosques at Patia, Bayikere, Ballippadi, Arikkadi, Belinjee and Angadimogaru. P.Ws. 5 and 11 were examined to prove this part of the petitioner's case. P.W. 5 deposed that he is a resident of Belinjee and that some eight days prior to the polling date, on a Friday after the prayer the Mukri of the mosque read Ext. P6. P.W. 5 admitted that he used to work in the garden lands of the petitioner. He does not know from whom Ext. P6 was received. He admitted that he does not know to read or write Malayalam. When he was asked whether he can recite from memory the contents of any other notice he has read, his answer was that he does not remember. He admitted "Malayalam vachakam kettal sadharana carmayil nilkrilla". In the re-examination there was a faint attempt to elicit from the witness that he remembers the contents of Ext. P6. P.W. 5 appears to be a hired witness, who cannot be believed.

P.W. 11 is a member of Bellippadi Jumayath. He deposed that he heard a notice being read in the mosque the concluding portion of which, according to him, was to the effect that the petitioner and Ibrahim are collaborators of R.S.S. and Jana Sangh and that they caused harm to the Muslims, and therefore, votes shall not be given to them. It was further stated in Ext. P6 that votes shall be given to Ramachandran and T. E. Ibrahim. In the earlier portion of the deposition the witness mentioned that T.E. Ibrahim also shall not be given votes because he is in collaboration with R.S.S. and Jana Sangh. To explain that error a leading question was asked "Arkanu vote chaeeyenda kannu paranjathu". His answer is "Abdul Rahimanum Ramennarai Kum". In the cross-examination he admitted that he does not know who are R.S.S. and what is meant by Jana Sangh. He was asked whether he could remember the contents of any notice in Malayalam read over to him and he answered in the negative. It is rather unusual that he could remember the contents of Ext. P6. P.W. 11 appears to be another hired witness. Regarding Ext. P6 there is another aspect which cannot be overlooked. The printer has not examined and the original manuscript also has not been produced. It is not therefore known whether actually the notice was published by the League mentioned therein. It was perhaps of this lacuna in the evidence that the petitioner attempted to connect the respondent with the notice through the evidence of P.Ws 5 and 11. Since those witnesses cannot be believed it has only to be held that the petitioner has failed to prove this allegation as well.

8. Though there are certain vague allegations regarding irregularities in counting no issue was raised and no argument also was advanced by the petitioner. In fact, P.W. 17 did not give any evidence regarding those allegations. I have, therefore, considered only the question of corrupt practices, which alone was pressed before me at the time of argument by the petitioner.

9. A separate order under Section 99 of the Act is passed.

10. Issue No. 3. In view of the finding of Issue No. 2 I hold that the petitioner is not entitled to the reliefs prayed for in the election petition.

In the result, the election petition is dismissed with costs of the respondent. Advocate's fee is fixed at Rs. 500.

The Office will communicate the substance of this decision to the Election Commission and the Speaker of the Lok Sabha. It shall also send an authenticated copy of this decision, as soon as it is ready, to the Election Commission as provided in section 103 of the Representation of the People Act, 1951.

4th November, 1977

Sd/- N. D. P. Namboodiripad, Judge.

APPENDIX

Petitioner's Exhibits:

- Ext. P1 dated 8-6-77—Letter from the Secretary, Delampadi Desseeya Karshaka thozhilali Federation to the Minister for Harijan Welfare, Govt. of Kerala, Trivandrum.
- Ext. P2 dated 18-2-77—Notice regarding Harijan Seminar.
- Ext. P3 dated 7-3-77—Letter No. PB4/GEN/77 of P.A. Ramanujam Superintending Engineer, Kozhikode.
- Ext. P4 dated 7-3-77—Do. letter of Superintending Engineer to Chief Engineer.
- Ext. P5 dated 1-3-77—Notice regarding inauguration of Govt. Dispensary.
- Ext. P6 dated —Statement of Indian Union Muslim League Taluk Committee, Kasargod relating to voting.
- Ext. P7 dated —Appeal to the voters of the Kasargod Constituency.
- Ext. P8 dated 7-8-75—Resolution of the Municipal Council, Kasargod.
- Ext. P9 dated —Report of the Committee Constituted as per the council Resolution dated 7-8-1975.
- Ext. P10 dated —Letter containing discenting note to the Chairman, Kasargod Municipality, Kasargod.
- Ext. P11 dated 21-10-76—Proceedings No. E3.9807/76 of the Director of Municipalities, Trivandrum.
- Ext. P12 dated 25-2-1977—Proceedings No. E3.4871/77 of the Director of Municipalities, Trivandrum.
- Ext. P13 dated 21-2-77—Letter No. 4025/77 of the Director of Municipalities, Trivandrum to the Municipal Chairman, Kasargod.
- Ext. P14 dated —Tour Programme of Shri V. M. Augustine, Director of Municipalities.
- Ext. P15 dated 25-2-77—Resolution of the Municipal Council, Kasargod.
- Ext. P16 dated 9-10-76—Certified copy of C.C. 977/76.
- Ext. P17 dated 6-6-77—Certified copy of amendment of charges.

Respondent's Exhibits :

Nil

Petitioner's Witness :

- PW1 A. Ramanada Shenoy,
 PW2 P. V. Krishnan.
 PW3 P. D. Ramanujan.
 PW4 Abdul Rahiman A.
 PW5 Moideenkunju.
 PW6 K. Suresh.
 PW7 Narayanan.
 PW8 Vishwanatha Prabhu.
 PW9 C. L. Mahin.
 PW10 S. A. Kader.
 PW11 B. Mammad.

- PW12 Madhavan.
 PW13 B.P. Abdulla
 PW14 P. Narayanan.
 PW15 Ganappa Nair.
 PW16 Mahesan.
 PW17 M. Ramanna Rai.

Respondent witness :

- RW1 Ramachandran Kadannappally.

Memo of costs to the Respondent

Stamp on Vakalath Rs. 5

Advocate's fee Rs. 500

Total Rs. 505

Sd/- Assistant Registrar

(No. 82/LD-HP/9 77)

S.O. 398.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment dated the 17 October, 1977 of the High Court of Kerala, Ernakulam, Cochin-11 in Election Petition No. 22 of 1977.

IN THE HIGH COURT OF KERALA, ERNAKULAM
 PRESENT

THE HONOURABLE MR. JUSTICE N. D. P. NAMBOODIRIPAD.

Monday, the 17th October, 1978

E. P. No. 22/1977

PETITIONER :

Dr. K. K. Mohamad Koya, Kunnamkallam House, Kalpeni Island, Lakshadweep.

By. Advs. M/s. Chandrasekharan, P. N. Krishnaketty Achan, P. N. K. Achan, K. Vijayan, N. N. Sugunapalan & V. I. Joseph.

RESPONDENT :

Shri P. M. Sayeed, (P. Mohammed Sayeed) Padannath House, Androth Island, Lakshadweep.

By Advs. M/s. P. C. Mohsin & P. K. Musa.

This Election Petition having been heard on 12-10-1977 in the presence of M/s. K. Chandrasekharan, P.N.K. Achan, K. Vijayan, N. N. Sugunapalan & V. I. Joseph Advocate for the petitioner and of M/s. P. C. Mohsin & P. K. Musa Advocate for the Respondent the Court on 17-10-1977 delivered the following :—

JUDGMENT

In the general elections to the House of the People held in March 1977 the petitioner and the respondent were the duly nominated candidates who contested for the Lakshadweep constituency, a Union territory. Poll was taken on March 16, 1977 and the counting of votes took place on March 20, 1977. In the results announced on the same date the respondent was declared elected to the House of the People from the Union Territory of Lakshadweep. According to the petitioner the election is invalid because of the corrupt practices committed by the respondent and his election agent and certain other persons with the consent of the respondent and his election agent. The particular items of corrupt practices alleged are set out in detail in sub-paragraphs 1 to 11 of paragraph 4 of the petition. They are as follows : The respondent received a bank draft for one lakh of rupees from the General Secretary of the Kerala Pradesh Congress Committee and the money so obtained was utilised by the respondent for making gifts to the electors. The respondent brother Shri Sayed Muhammed Koya Musaliar and Shri Muthukoya Thengal, the Khazi in Ameni Islands while campaigning for the respondent promoted feelings of enmity and hatred between different classes of citizens of India on grounds of religion and community. The petitioner was represented as an infidel and a nominee of the Janatha party. The respondent and his election agents threatened the

voters that if they refuse to vote for the respondent the concession extended to the Islands in the matter of payment of revenue, free education, etc., will be withdrawn. A publication under the name 'Kahalam' was printed and distributed by Lakshadweep Students Association, of which the respondent is the patron, containing false, reckless and scurrilous allegations against the petitioner. There was non-compliance with the provisions of the Constitution and the Representation of the People Act, 1951 (for brevity the Act), and the Rules thereunder. Sufficient time was not given to raise objections to the electoral roll with the result that persons below the age of 21 years on the qualifying date were registered as voters. The ballot boxes collected from the polling stations in the Islands of Ameni, Kadamatt, Kiltian, Chetlath, Agathi and Bithra were transported in the Indian Navy Ship to which the petitioner and his agents had no easy access. The administration had two ships which could have been used for that purpose. The time fixed for polling was insufficient. Polling was purposefully delayed by the presiding officers in the Minicoy Islands. The ruling party made use of government officers to canvass votes for the respondent. Mr. Lahker, who was purposefully appointed as Administrator in the place of Shri Varma was closely related to the leaders of the Congress Party, and the respondent was a candidate of that party. The respondent obtained the assistance of Shri Lahker. The Collector of the Islands Shri Ramu directed the police to remove the flag and the board of the Congress party office at Minicoy Islands, which was then supporting the petitioner. The removal of the flag and the name board prejudicially affected the petitioner. The respondent is thus guilty of corrupt practices as defined in sections 123(1), 123(3)(a), 123(2) and 123(4) of the Act. The facts set out in clauses 5, 6, 7, 8 and 9 constitute violation of the Constitution and the Act. But for the corrupt practices and non-compliance with the provisions of law the petitioner could have obtained the majority votes. The prayers in the petition are for, (a) a declaration the election of the respondent is void; (b) a declaration that the petitioner has been duly elected to the House of the People from the Lakshadweep Parliamentary Constituency; and (c) to grant the petitioner costs and consequential reliefs.

2. In his written statement the respondent raised the following contentions : Since the petition was presented in court not by the petitioner but by his counsel there was no proper presentation and consequently the petitioner is liable to be dismissed under section 86(1) of the Act. The true signed copies of the election petition was submitted in court only on 28-5-1977. There was thus violation of section 81(3) of the Act. On that ground also the petition is liable to be dismissed. Since the petition alleges corrupt practices, this court has no jurisdiction to enquire into those allegations. Under article 103 of the Constitution the question of corrupt practice can be enquired into only by the Election Commission on consultation with the President of India. In view of article 103 of the Constitution, sections 98 to 100 of the Act should be deemed to have been repealed. Again, in view of the Constitution (Forty-second Amendment) Act, sections 98 to 100 of the Act have become unconstitutional, and that question cannot be decided by this court in view of article 226A of the Constitution. The respondent was declared elected on 20-3-1977. The election petition is seen to have been filed before the court on 28-5-1977. In view of section 81 of the Act the petitioner had only 45 days' time to file the election petition. The petition is therefore barred by limitation. All the allegations of malpractice alleged in the petition are baseless and completely vague as to offend section 83A and B of the Act. The respondent did not receive any money from Shri P. C. Chacko. General Secretary of the Kerala Pradesh Congress Committee for making gifts. One lakh of rupees was never intended for election expenses and neither was that used for the same. The said money is even now in deposit in the Syndicate Bank, Kavaratti, it is a contribution from K.P.C.C. towards the construction of Congress House (D.C.C. Office) at Kavaratti. No money was distributed at Kadamath or gifts at other places. Sri Sayed Mohammed Koya or Muthukoya Thangal were never close associates of the respondent. The respondent is not aware of the speeches alleged to have been made during the election campaign. The respondent had at no time asked them directly or indirectly to make any speech or to do any campaign for the purpose of advancing his election prospects. The respondent is not aware of

Moulavi S. V. Yousuff Koya Thangal of Androth. The step brother of the respondent by name Shri Sayed Mohammed Koya Musaliyar is working in Amini Island, but he never took part in the election campaign or the election speeches. The respondent had no election agent working for him at any time. The allegations of threat, promise and undue influence on the electors are incorporated in the petition only for the purpose of the petition. The respondent is not aware of or responsible for any publication made to vilify the character of the petitioner as mentioned in paragraph 4 of the petition. The respondent has not come across any such publication at any time. No corrupt practices have been committed by any person for the benefit of the respondent with the consent and knowledge of the respondent. The contents in clauses 7 and 8 of paragraph 4 of the petition are vague. The grievance of the petitioner as disclosed in those clauses, if true, are grievances that would have affected adversely the respondent also. The respondent had no connection with the actual conduct of the election and subsequent procedures. There was no dereliction of duty as alleged in the petition. The assertions in clauses 9 to 11 of paragraph 4 of the petition are vague and hence incapable of advancing proper replies. As far as the respondent knows, polling in Minicoy was started at the correct time and was conducted in a peaceful and legal manner. No government official has at any time canvassed votes for the respondent. Transfer of Mr. Varma might have been for administrative reasons or for reasons known to the Union Government. To the knowledge of the respondent Mr. Lahker has no hold on Congress leaders or officials. The respondent had at no time obtained or sought any help from Mr. Lahker for furthering his election prospects. There was no mis-use of official power in favour of the respondent at any time. The respondent is not aware of the incidents referred to in clause 11 of paragraph 4 of the petition. It is not correct to say that voters were afraid to vote for the petitioner due to the incidents mentioned. To the knowledge of the respondent the petitioner did not arise any complaint before the authorities concerned. The respondent has not resorted to bribery as defined in section 123(1) of the Act. The respondent never promoted feelings of enmity and hatred between different classes of citizens of India on grounds of religion or on any other ground within the meaning of section 123(3)A of the Act. No undue influence has been exerted by the respondent at any time to further his interests in the election. The respondent had not done anything so as to attract section 123(4) of the Act. The petitioner is not entitled to any relief.

3. After discussing with both sides the following issues were raised.

- (1) Whether the petition is maintainable ?
- (2) Whether the petition is barred by limitation ?
- (3) Whether the election of the respondent is vitiated by the corrupt practices alleged in the petition ?
- (4) Regarding reliefs and costs.

4. Before dealing with the issues, I think, it is necessary to narrate briefly the course of the trial of this case. The respondent filed his written statement on 11-7-1977. Issues were raised, and the respondent wanted the question of limitation covered by issue No. 2 to be heard preliminary through C. M. P. No. 9879/77. Issue No. 2 was therefore heard preliminarily on 10-8-1977, and the case was posted to 14-7-1977 Order on the preliminary issue was passed on 14-7-1977 repelling the contentions of the respondent regarding re-limitation. On 14-7-1977 the petitioner was present, but for want of time he could not be examined on that date, and the case was posted to 10-8-1977. On 28-7-1977 the petitioner filed C. M. P. 11162/77 praying that the election petition posted for evidence on 10-8-1977 may be adjourned to the second week of September. The affidavit filed in support of that petition stated that due to the non-availability of conveyance from the Islands to the mainland and since the regular service will resume only from September 15th it may not be possible for the petitioner to go to the Islands to collect the relevant records and also to contact the witnesses. That petition was allowed and the case was posted to 10-10-1977 for day-to-day trial. On 10-10-1977 both sides were present. The petitioner's learned counsel represented that certain witnesses are present. No witness schedule was filed previously. During the course of the day the

petitioner filed a statement containing the names of 14 witnesses he proposed to examine. The petitioner also filed C. M. P. 15873/77 to condone the delay in filing the witness list. Though the respondent objected to that petition I allowed it, and I permitted the petitioner to examine the available witnesses. The petitioner was examined as P.W. 1, and another witness was examined as P.W. 2 on 10-10-1977. On 11-10-1977 two more witnesses were examined as P.W.s 3 and 4. Then the petitioner represented that for non-availability of conveyance the other witnesses could not reach Ernakulam and that further time may be granted. That was opposed by the opposite side, and I was not inclined to allow any further time to the petitioner. I may also point out at this stage that the witness list dated 10-10-1977 filed by the petitioner itself was not in accordance with law. The list does not contain the purpose for which each witness is to be examined. There is also no request to issue any summons or to permit the petitioner to examine the witnesses which he intends to produce. The case was posted to 12-10-1977. The respondent was examined as R. W. 1, and arguments were heard.

5. Issue No. 1. The respondent has contended that the petition is not maintainable since it was not presented by the candidate himself, which violates the provisions of section 81(1) of the Act. I do not find any merit in this contention, and it is rejected. The respondent also contended that since corrupt practices have been alleged in the election petition this court has no jurisdiction to try the petition. This question has been elaborately discussed by me in the decision reported in Mohammed Jaffarkhan v. T. H. Musthaffa (1977 KLT 602), and in view of that decision this contention of the respondent also is repelled. I hold that the petition is maintainable, and the issue found in favour of the petitioner.

6. Issue No. 2. This issue was already decided by me by the preliminary order dated 14-7-1977 holding that the petition is well within time. This issue also is found in favour of the petitioner.

7. Issue No. 3. The main, if not, the only ground upon which the election of the respondent is challenged is that the respondent and his supporters were guilty of corrupt practices indulged in during the course of the election. The allegations regarding corrupt practices are contained in paragraph 4 of the election petition. I may consider each allegation separately.

8. In paragraph 4(i) of the petition it is alleged that the respondent received a bank draft for rupees one lakh from Shri P. C. Chacko, the General Secretary of the Kerala Pradesh Congress Committee. It is then added "money so obtained was utilised by the respondent for making gifts to the electors as stated above". The allegation apparently is one attracting section 123(1) of the Act. In paragraph 6(b) of the written statement the respondent has admitted that one lakh of rupees was sent by the K.P.C.C. General Secretary. But it is contended that the amount was sent for the construction of the District Congress Committee Office at Kavarathy and that no portion of the amount was spent for any illegal purpose and that the amount is even today held in deposit in the Syndicate Bank through which the draft was sent by the General Secretary. Thus the receipt of one lakh of rupees by the respondent from the secretary of the K.P.C.C. is not in dispute. The petitioner gave evidence as P.W. 1. He did not dispute the fact that the aforesaid one lakh rupees is still in deposit in the Syndicate Bank. It is, therefore, obvious that no portion of the amount sent by the General Secretary of the K.P.C.C. was utilised for any matter connected with the election and that even now that amount is in deposit in the Syndicate Bank, Kavarathy branch. Since the petitioner cannot establish that any amount out of the aforesaid one lakh rupees was spent, in the witness box he gave a different version. He deposed that still another one lakh was received from third parties and that amount might have been utilised for purchasing votes. In the first place, the petitioner has no such case in the petition, and as already pointed out, the allegation in the petition is that the voters were paid out of the one lakh of rupees received from the General Secretary of the K.P.C.C. Secondly, the petitioner was prepared to admit in the witness box that he has no personal knowledge regarding the receipt of yet another lakh of rupees from a different source, and that his information is based upon the reports of his workers and the general talk. No other witness has been examined to prove the payment of any money by the respondent to any voter. Thus the allega-

tion made by the petitioner regarding bribery has not been established, and I have no hesitation to reject that allegation in toto.

9. In paragraph 4(ii) of the petition it is alleged that Shri Sayed Muhammed Koya Musaliar, brother of the respondent, and Shri Muthukoya Thangal, the Khazhi in the Ameni Island while campaigning for the respondent made speeches in meetings so as to promote feelings of enmity and hatred between different classes of citizens of India on grounds of religions and community. A similar activity is attributed to another Shri S. V. Yousuff Koya Thangal. The allegation gives the substance of the objectionable portion in the speeches. The respondent contended in his written statement that Shri Sayed Muhammed Koya Musaliar or Shri Muthukoya Thangal were never close associates of the respondent and that he is not even aware of Shri S. V. Yousuff Koya Thangal. The respondent contended further that no such inflammatory speeches were ever made. The petitioner has attempted to prove this allegation through oral evidence as well as the production of cassette. I may deal with the cassette first. As referred to earlier, not even the existence of a tape record of the speech of any of the persons alleged by the petitioner was ever mentioned by the petitioner either in the petition or in the belated witness list he filed on 10-10-1977. Though the respondent's learned counsel seriously opposed to its admission in evidence, since P.W. 2 deposed that he recorded the concerned speeches, I admitted the cassette in evidence and permitted it to be marked as Ext. P 1. Ext. P 1 is proved by P.W. 2. P.W. 2 is a resident of Anthroth Island. He deposed that on 12-3-1977 there was a meeting in the Island in connection with the election propaganda of the respondent. Apart from the respondent, who presided in the meeting, two of the other speakers were one Shri E. K. Syed Muhammed Koya Musaliar and another S. V. Yousuff Koya Thangal. P.W. 2 deposed that Ext. P 1 is the record of the speeches made by the aforementioned two persons. According to that witness he did not possess any instrument to record the speeches. But he came to the meeting with one Muthukoya, who had the necessary apparatus and the tape. The recording itself was not made at the place where the meeting was held. According to the witness there was a loud speaker tide to a coconut tree at a height of about 10 feet from the ground and that Muthukoya and himself recorded the whole thing by sitting near that loud speaker. Muthukoya has not been examined. P.W. 2 admitted that he was a worker of the petitioner. His evidence therefore is interested and in the absence of better evidence I am not inclined to accept Ext. P 1 as a record of the speeches made by E. K. Syed Muhammed Koya Musaliar and S. V. Yousuff Koya Thangal. P.W. 2 was asked as to when this incident was made known to the petitioner. P.W. 2 deposed that the petitioner was not present in that meeting and that he was not in the Island on 12-3-1977. Ext. P 1 is alleged to have been given to the petitioner on the day of counting. The witness then added that the cassette was returned to him by the petitioner for keeping it in safe custody for the purpose of using it in court. P.W. 1 admitted that he was not aware of the recording of the speech and that the tape-recording of the speeches came to his knowledge on enquiry. He was asked as to when he came to know about the tape-recording. P.W. 1 deposed: "Election kazhinjathinu shesham result arinjathinu sheshamanu arinjathu. That would mean that the version of P.W. 2 that the cassette was given to P.W. 1 on the date of the counting is absolutely false. Nothing was mentioned about Ext. P 1 in the petition. P.W. 1 further deposed" "Eante praverthakar tape record cheythu vivaram ariyichappal ajan adhehathe sameepikkukayum canikku atha therikayum cheythu". He also added that he actually got the tape record about a week back and after hearing it played he gave it back. This would indicate that P.W. 1 got knowledge about Ext. P 1 through his workers. I am not therefore prepared to accept the evidence of P.W. 2 to the effect that Ext. P 1 is the record of the speeches made by S. V. Yousuff Koya Thangal and E. K. Muhammed Koya Musaliar. When the respondent gave evidence as R.W. 1 he was confronted with Ext. P 1. The record was played in court and R.W. 1 denied that the voice he heard was that of E. K. Muhammed Koya Musaliar. Referring to Yousuff Koya Thangal his version was that he does not know the man even. There is thus no acceptable evidence to show that Ext. P 1 can be safely acted upon. It was, presumably because of this difficulty that at the time of final arguments the learned counsel for the petitioner requested that he may be given further opportunity to examine Sayed Muhammed Koya Musaliar and S. V. Yousuff Koya Thangal. Apart from the belated nature of this prayer it is significant to note that even the belated witness list dated

10-10-1977 does not contain the names of these persons. I am not therefore granting this oral request. The petitioner has not succeeded in proving that the speeches recorded in Ext. P 1 were the speeches made by Syed Muhammed Koya Musaliar and S. V. Yousuff Koya Thangal.

10. As P.W. 1 the petitioner deposed that he himself heard the speech in the meeting held on 12-3-1977. P.W. 2 has deposed that Muthukoya and P.W. 2 himself were workers of the petitioner and that he did not see the petitioner in the meeting on 12-3-1977. P.W. 2 has gone a step further and deposed that the petitioner was not present in the Islands on 12-3-1977. The petitioner has no case that P.W. 2 or Muthukoya were not his workers. It is rather difficult to believe that his own workers could not identify the presence of the petitioner in that meeting, if he was as a matter of fact present. According to P.W. 1 he had noted the substance of the speeches, but that script is not tendered in evidence. I am not inclined to accept the version given by P.W. 1 regarding the speeches alleged to have been made in the meeting in the Anthroth Island held on 12-3-1977.

11. To prove the very same allegation another worker of the petitioner was examined as P.W. 3. P.W. 3 resides at Minicoy Island. He deposed that he attended two propaganda meetings of the respondent. The first meeting was at Kudahin presided by Shri W. Hussan Ali, president of the D.C.C. and the speakers were Ibrahim Yousuff, the respondent, K. Kunhikoya and B. Ali. According to him the speakers addressed the public pointing out that the petitioner is supported by the R.S.S., which are inimical to Islam and that if the petitioner wins the election the entire population of the Island will become Kafirs and that the benefit extended to the people will be stopped. The second meeting he attended was at Boduvathiri wherein the speakers were W. Hussan Ali, the respondent, K. A. Mohammed and K. Kunhikoya. According to the witness the same old version was repeated. P.W. 3 admitted that there was no R.S.S. or Jana Sangh in Minicoy Island. The females of that Island who constitute the majority of voters have never heard about R.S.S. According to him the two speeches were made during the first week of March, and he was asked as to whether he gave information of these speeches to the petitioner. His reply was that he did not inform the petitioner because the witness had not time. Since the polling was on the 16th he was further asked as to whether there was not sufficient time to inform the petitioner if the speeches were really made in the first week of March. His reply was that since he was actively working for the election he had no time. P.W. 3 deposed that the language spoken in the Islands generally is Mahal. Only a few educated persons know Malayalam. The witness deposed that except the respondent all the other speakers spoke in Mahal. According to the witness the version given by him in court in Malayalam is substantially the translation of the speeches in Mahal language. He would add that he had kept the substance of the speeches noted on paper which he has kept in his house. This witness was originally employed in the Central Reserve Police. According to him he gave up office because his father did not like it. The suggestion in the cross-examination was that the witness was dismissed from service for misconduct. No doubt, P.W. 3 denied it. Whatever may be the truth of the version it is categorically admitted by the witness that he was an active worker of the petitioner and that after the formation of the Janatha Party in the Island by the petitioner this witness also has joined that party. I am not prepared to believe the evidence of P.W. 3.

From the foregoing analysis of the evidence in the case I am not satisfied that in the propaganda meetings held by the respondent speeches were made by certain speakers so as to attract section 123 (3A) of the Act. The petitioner has failed to prove this allegation as well.

12. Another allegation of the petitioner is that the respondent and his election agent exerted undue influence on the electorate by holding out a threat that if people voted for the petitioner all concessions extended to the Islands in the matter of exemption from payment of revenue, free education, free medical aid, larger rations, etc., would all be withdrawn. The only evidence in support of this allegation is that of P.W. 1. P.W. 1 has admitted that he has no personal knowledge regarding the corrupt practices except with regard to the transfer of an officer and also the speech he attended on 12-3-1977. Since the petitioner has no personal knowledge his evidence does not carry any weight as far as this allegation is concerned. The allegation has not been proved.

13. Yet another allegation of the petitioner is that the respondent and his associates published statements which were false and which they knew to be false in relation to the personal character and conduct of the petitioner so as to prejudice the prospects of the petitioner's election. A publication by name Kahalam was made by the Lakshadweep Students Association containing false, reckless and scurrilous allegations against the petitioner. The petitioner has not chosen to tender in evidence the objectionable literature. The petitioner has no case that he personally saw the objectionable matter. In this matter also his knowledge is based upon information supplied by others. The respondent admitted that there is a Students' Union of which he is the president. He denied having issued any publication containing personal attacks as against the petitioner. The petitioner has not succeeded in proving this allegation also.

14. According to the petitioner section 123(7) of the Act is attracted because the assistance of government officers were secured by the respondent in the disputed election. Two incidents are mentioned in this connection. The first incident pointed out is that one Shri Varma who was the administrator of the Islands was transferred and one Lakher, who is related to then Congress President Mr. Barua was appointed as administrator. The transfer and the new appointment were made for the purpose of helping the respondent. Here again, the evidence consists of the solitary testimony of P.W. 1. P.W. 1 deposed that he has not seen the records connected with the transfer of Shri Lakher. From this evidence it appears that about two months prior to the election the respondent had made certain complaints against Shri Varma for initiating certain proceedings against the supporters of the respondent. He has no personal information regarding the grounds of transfer. P.W. 1 deposed: "Administratorude pinniedulla praverthanthil ninnanu election kargathinu mattu cannu oohichthu eparanja Keryunga anu-othayathu gogeat hinte karyavum administratorude kargavum materemenu Zerittariyunnathu. Bakkigellam nerittulla arivalla." The only allegation made against the new appointee namely Shri Lakher is that he travelled in the Islands. Being a newly appointed administrator it was certainly necessary for him to get himself acquainted with the Islands. Apart from making wild allegations the petitioner is not in a position to point out in what particular respect the administrator helped the respondent in the election.

15. The second instance of official interference in an incident spoken to by P. W. 4. P. W. 4 is a resident of Minicoy Island. He was working for the petitioner in the election. He deposed that in the Islands there were two congress offices and he was the secretary of one of those offices, which was supporting the petitioner. According to P. W. 4 on the date of polling at about 6.00 a.m. certain police officers came to the office and forced him to remove the congress flag and also the name board. The police is alleged to have told him that Collector has ordered for lowering the flag. He was present in court on all days when this petition was being tried. He deposed that he came to give evidence as demanded by the petitioner. He said that he has not mentioned about this incident to anybody before he gave evidence before court. In the first place, being a close worker of the petitioner the evidence of this witness cannot be believed. Secondly I fail to understand how the removal of the Congress flag or the Congress sign board can adversely affect the petitioner because the petitioner was not a candidate put up by the Congress. On the other hand, the evidence of this witness would throw some suspicion regarding certain other aspects of the petitioner's case. It must be remembered that according to P. W. 4 it was only on the date of the polling that the Congress office headed by him was visited by the police. So till that date that office was functioning as the congress office supporting the petitioner. P. W. 3 deposed that in the Islands there is one group headed by the petitioner and the other group headed by the respondent. He also deposed that the females of that Island have never heard about R. S. S. From the evidence of P. W. 4 it would appear that there was a difference of opinion among the supporter of Congress and that one group supported the petitioner and the other supported the respondent. In all probability the inhabitants of the Islands had no idea about R. S. S. or Janatha party. It is in these circumstances that I doubted whether there might have been any speech attracting section 123(3A) of the Act. The petitioner has not adduced any evidence to show that any officer made mention of in section 123(7) of the Act

assisted the respondent in the matter of procuring votes. The petitioner has failed to prove this allegation also.

I am simultaneously passing an order under section 99 of the Act.

16. In the petition apart from corrupt practices the petitioner has alleged that there were irregularities in the matter of preparation of the electoral roll, the transporting of ballot boxes and the attitude of the counting staff. These aspects were never pressed at the time of argument. That apart, there is only the vague suggestion of P. W. 1 regarding these matters in his evidence; and P. W. 1 was prepared to admit that except regarding the two items of corrupt practices mentioned by him in his examination he has no personal knowledge about any other allegation in the petition. I hold that the petitioner has not succeeded in proving any other irregularity in the election.

17. Issue No. 4.—In view of the findings on issue 3 the petitioner is not entitled to any of the reliefs prayed for in the petition.

In the result, the election petition is dismissed with costs. Advocate's fee is fixed at Rs. 500/-.

The Office will communicate the substance of this decision to the Election Commission and the Speaker of the Lok Sabha. It shall also send an authenticated copy of this decision to the Election Commission as soon as it is ready as provided in Section 103 of the Representation of the People Act, 1951.

17th October, 1977.

Sd/-

N. D. P. NAMBOODIRIPAD, Judge.
APPENDIX

Petitioner's Exts. :—

P 1 Cassette.

Respondent's Exts. :—

R 1 Dated 5-1-1976 Mathrubhoomi daily.

R 2 Dated 9-2-1977 Paper cutting of Chandrika daily.

Petitioner's witness :—

P. W. 1 Dr. K. K. Mohammed Koya.

P. W. 2 Sheik Koya Thangal.

P. W. 3 D. Ibrahim.

P. W. 4 K. Donmanikyan.

Respondent's Witness :—

R. W. 1 P. M. Sayeed.

Memo of Costs to the Respondent

Stamp on Vakalath Rs. 5.00

Stamp on Petition Rs. 2.00

Advocates fee Rs. 500.00

Total Rs. 507.00

Sd./-

Asst. Registrar

25-11-1977.

[No. 82/LD-HP/1/77]

New Delhi, the 24th December, 1977

S. O. 399.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgment of the High Court of Kerala dated 6th December, 1977 in Election Petition No. 18 of 1977.

IN THE HIGH COURT OF KERALA, ERNAKULAM

PRESENT :

The Honourable Mr. Justice N. D. P. Namboodiripad.
Tuesday, the 6th December, 1977/15th Agrayayana,
1899.

E. P. No. 18 of 1977

PETITIONER :

M. C. Mohammed, Kizhissery, P. O. Kuzhimanna
Malappuram District.

By Advocates M/s. M. M. Cheriyan, Hamid Ali Shamnad
and R. Radhakrishnan Nair.

RESPONDENTS :

1. Ebrahim Sulaiman Sait, Alhilal, Krishnaswamy Road,
Ernakulam, Cochin-11.

2. B. M. Hussain, Retired Superintendent of Police,
Maliyakkal House, T. C. Road, Tellicherry P. O.

Respondent 1 by Advocates M/s. S. Narayanan Poti,
S. Sankarasubban, George Mathew and V. K.
Beeran Sahib Respondent 2 by Advocates M/s.
M. Ramachandran and K. Mohammed.

The Election Petition having been heard on 1-12-1977 in the presence of M/s. M. M. Cheriyan, Hamid Ali Shamnad and R. Radhakrishnan Nair Advocates for the petitioner, of M/s. S. Narayanan Poti, S. Sankarasubban, George Mathew and V. K. Beeran Sahib Advocates for the 1st Respondent and of M/s. M. Ramachandran and K. Mohammed Advocates for the 2nd Respondent the Court on 6-12-1977 delivered the following :—

JUDGMENT

This is a petition filed under sections 80 to 84, 100 and 101 read with section 123 of the Representation of the People Act, 1951 (for brevity the Act) laid by an elector in the 5 Manjeri Parliamentary Constituency. Polling was on 19-3-1977. The counting of votes took place on 20-3-1977 and on 21-3-1977, and the 1st respondent was declared as elected by the Returning Officer. The election of the 1st respondent is challenged on the ground that it was vitiated by corrupt practices set out in section 100 (1) (b) read with section 123 (3), (3A) and (4) of the Act. It is alleged that the 1st respondent appealed to vote for him on the ground of religion and community and he attempted to promote feelings of enmity and hatred between different classes of citizens on grounds of religion and community in furtherance of the prospects of his success. The 1st respondent also published statement, which were false, in relation to the candidature of the 2nd respondent calculated to prejudice the prospects of the 2nd respondent's election. The 1st respondent is the President of the Indian Union Muslim League, and is also one of the Directors of the Muslim Printing and Publishing Company Limited, which owns a daily paper called "Chandrika". The major shares of the aforesaid company are held by the Muslim League of which the 1st respondent is the All India President. That newspaper is the official organ of the Muslim League. Paragraph 4 of the petition has extracted the objectionable portions contained in a report found in the issue dated 17-3-1977 of the Chandrika Daily. The 2nd respondent was the candidate of the Muslim League Opposition which was branded as "Vimatha Muslim League" by the 1st respondent. The 1st respondent further said that the 2nd respondent need not hope to get the support of any person in whose veins Muslim blood is flowing. Again, in the issue dated 12-3-1977 of Chandrika Daily a cartoon was published depicting Jana Sangh as a pig and Shri E. M. S. Namboodiripad, the Marxist leader, cutting the flesh of the pig and serving it to two Muslims. It is well-known that to eat 'pork' is pardial anathma (haram) for true Muslims. The publication of the aforesaid cartoon was with the consent and knowledge of the 1st respondent and at the instance of his agents like the Chief Editor of the paper, who is also the General Secretary of the Muslim League. The paper Chandrika is an agent of the 1st respondent as understood in election law. Paragraph 6 of the petition relates to a speech delivered by Shihab Thangal, the president of the Kerala unit of the Muslim League published in the issue dated 18-3-1977 of Chandrika. The objectionable portion is extracted in paragraph 6 of the petition. Again, in the issue dated 6-3-1977 of Chandrika, an article written by one Hajee N. V. Muhammed Ali, Vice President of Chandrika Readers' Forum, Qutar, has been published calling upon the voters to desist from voting in favour of the 2nd respondent in the name of religion and community. The article contains inflammatory statements which rouse communal passion of Muslims. An open letter written by Shri K. M. Chummar

and published in the issue dated 13-3-1977 of Chandrika is another instance, where attempt is made to promote feelings of enmity and hatred between different classes of the citizens on grounds of religion and community. Paragraph 8 of the petition has extracted portions of a speech delivered by the then Home Minister Shri K. Karunakaran and published in the issue dated 16-3-1977 of Chandrika. That statement was made to prejudice the prospects of the election of the 2nd respondent, and it was wholly untrue. The prayer in the petition is to declare the election of the 1st respondent as void and to declare the 2nd respondent as duly elected from the concerned Parliamentary constituency.

2. The petition was opposed by the 1st respondent by a written statement containing the contentions set out below. The petition has been filed without good faith and with the object of causing harassment to the 1st respondent and is based on untrue and untenable grounds. The 1st respondent is not aware of the petitioner being an elector in Manjeri Parliamentary constituency, and the petitioner is put to strict proof of the said allegation. The 1st respondent has not committed any corrupt practice by appealing to vote for him on the ground of religion and community. The 1st respondent has not promoted or attempted to promote feelings of enmity or hatred between different classes of the citizens on the ground of religion and community, much less in furtherance of the prospects of the 1st respondent's election or which could prejudicially affect the election of the 2nd respondent. The 1st respondent has not published any statement which was false and which he either believed to be false or did not believe to be true in relation to the candidature of the 2nd respondent with a view to prejudice the prospects of the 2nd respondent's election. The 1st respondent's election is not liable to be declared void under any of the sections quoted in paragraph 3 of the petition. It is admitted that the 1st respondent made a speech at Pulickal which is said to have been reported in the Chandrika Daily dated 17-3-1977. The passage extracted in paragraph 4 of the petition is not true or an accurate version of the speech made by the 1st respondent. The 1st respondent made an extempore speech in English, and it is not possible for him at this distance of time to recall to his mind what exactly he spoke in that speech, though the reporter's version of the speech does more or less tally with the expression of the views of the 1st respondent at that meeting. The contents of the passage do not have the effect of either promoting or attempting to promote feelings of enmity or hatred between different classes of citizens on grounds of religion and community. There was no appeal to vote or to refrain from voting for any person on the ground of religion or community. The 1st respondent did not make any statement of fact which was false or which he either believed to be false or did not believe to be true in relation to the candidature of the 2nd respondent. At any rate, the 1st respondent's speech was a political address in which Jana Sangh, which is a political party, has been criticised and voters are requested to avoid going with parties who are arrayed with such a party. That was a legitimate criticism based upon the opinion of a speaker of a different party, and it does not attract sections 123(3), (3A) or (4) of the Act. Though the 1st respondent is one of the Directors of the Muslim Printing and Publishing Company Ltd., which owns the newspaper "Chandrika", the 1st respondent is not in the editorial staff, nor is he concerned in any manner with the actual printing and issuing of the newspaper from day-to-day. Since the 1st respondent had several functions to perform in his capacity as a Member of Parliament and also as the President of the Indian Union Muslim League, no time was there for the 1st respondent to direct or interfere with the actual editing and printing of the Chandrika paper. It is true that the Muslim League owns shares worth Rs. 3 lakhs in the Muslim Printing and Publishing Company Ltd., but that has no relevancy to the extent of the participation of the 1st respondent in the actual bringing out of the issues of that paper. The 1st respondent has not sufficient knowledge of Malayalam either to read or write in that language. The cartoon referred to in paragraph 5 of the petition is an ordinary innocuous political cartoon which is usual for newspapers and journals having political views to print and publish. It has not the effect which the petitioner urges, to promote or attempt to promote feelings of enmity and hatred between different classes of citizens of India on the ground of religion. No one looking at the cartoon will entertain any such hatred as a member of a community towards any other community. The cartoon was not published either with the consent or with the knowledge of the

1st respondent or at his instance. Chandrika Daily was not an agent of the 1st respondent. The speech reported in Chandrika dated 18-3-1977 was addressed by Shihab Thangal, and the speech was published on the basis of the information furnished by the reporter and cannot normally be accepted to be a correct or accurate version of what was spoken to by Shihab Thangal. At any rate, the passages extracted in paragraph 6 of the petition do not in any way have the effect of promoting or attempting to promote communal classes or constitute an appeal to vote in the name of religion for the purpose of sections 123(3), (3A) or (4) of the Act. The article published in Chandrika dated 6-3-1977 and contributed by Haji N. V. Muhammed Ali and the open letter by Sri K. M. Chummar to Sri M. K. Haji reported in Chandrika dated 13-3-1977 do not have any offensive content. They do not constitute a call to vote against the 2nd respondent in the name of religion or community. They do not attract section 123(4) of the Act. Moreover, it is submitted that the publications mentioned above were made without the knowledge and consent of the 1st respondent and he was not aware of those publications. The speech of Sri K. Karunakaran published in Chandrika dated 16-3-1977 was a merely political address which is quite lawful and permissive, and it does not attract section 123 of the Act. Sri Karunakaran cannot be considered as an agent of the 1st respondent in making that speech. The speech was not made with the consent or knowledge or approval of the 1st respondent. There were several parties, National as well as State-wise which were campaigning during the election in question though for the purpose of success these parties did have electoral alliances. It is natural for these parties and their representatives to entertain and give expression to opinions and views about other parties and the articles and speeches referred to in paragraphs 5 to 8 of the petition are no more than what is usually said and expressed by the parties during an election campaign and they were never intended to promote feelings of enmity or hatred between different classes of citizens. None of the articles or extracts of speeches referred to in paragraphs 5 to 8 fall within the ambit of section 123(4) of the Act. The Muslim League (Opposition) owns and publishes "The League Times" a similar Daily like Chandrika advocating the views and disseminating the propaganda of the Muslim League (Opposition) and its allies in the election. Chandrika is not an organ of the Muslim League. It is owned by a limited company in which, of course, the Muslim League holds a large number of shares. The 1st respondent has not made any speech that amounted to corrupt practice within the meaning of sections 123(3), (3A) or (4) of the Act. The election petition is not in conformity with law and it is not accompanied by an affidavit in terms of section 83 proviso. The petitioner is not entitled to any relief.

3. After discussing with both sides the following issues were raised :

1. Whether the petitioner has the locus standi to file the relevant election petition ?
2. Whether the election of the 1st respondent is vitiated by the corrupt practices alleged in the petition ?
3. Regarding costs and reliefs.
4. Issue No. 1.—In his written statement the 1st respondent has questioned the locus standi of the petitioner to file the petition, and the petitioner is put to proof. The petitioner has produced Ext. P1, which is a certified extract of the electoral roll to prove that he is a voter of the constituency in question. The 1st respondent did not press this point, and consequently, I hold that the petitioner is competent to file the petition.

5. At the time of the final hearing of this case the learned counsel for the 1st respondent raised the contention that the election petition itself is not maintainable for want of compliance with section 83(1)(a) and (b). In the written statement filed by the 1st respondent no such contention has been raised, and consequently, no issue also was raised. I would emphasize the aspect that the issues in this case were settled in open court after discussing with both sides. The only contention that has got a remote connection with the defect in pleading is that contained in paragraph 12 of the written statement. Paragraph 12 is in the following terms :

"The Election Petition is not in conformity with law as it is not accompanied by an affidavit in terms

of section 83 proviso which makes it mandatory that an affidavit in the prescribed form in support of the allegation of the corrupt practices and the particulars thereof shall accompany the petition where corrupt practices are alleged."

The 1st respondent never wanted to raise any issue on the basis of that contention. That apart, it was conceded before me that the affidavit accompanying the election petition is in conformity with the prescribed form. But the learned counsel advanced the argument that on the basis of the contention that affidavit is defective it has to be inferred that the petition is defective. I am not in the least impressed by that argument. Since no specific contention has been raised and since no issue has been joined regarding the non-compliance with section 83(1)(a) and (b) this contention does not merit any consideration. But since the learned counsel argued elaborately on this matter, for the satisfaction of the 1st respondent, I may briefly examine this contention on merits.

6. Paragraph 3 of the petition specifically refers to corrupt practices under section 123(3), (3A) and (4) of the Act. The paragraph then practically repeats the contents of each one of the aforesaid sections. Paragraphs 4 to 8 deal with certain publications relied on by the petitioner in support of the case he has put forward under sub-sections (3), (3A) and (4) of section 123. For the purpose of this case we are only concerned with paragraph 4 of the petition which deals with a passage contained in Chandrika paper dated 17-3-1977. The report is extracted in full in the petition. Thereafter the paragraph inter alia states as follows :

"The 1st respondent's speech clearly calls the Muslim community not to excuse the Vimatha Muslims which includes the 2nd respondent who is said to be leading poor Musalamans into the camp of Janasangh which killed Muslims in North India, Tellicherry and other places and had set fire to the sacred places of worship of the Muslims. The 1st respondent further said that the Vimatha Muslim League which includes the 2nd respondent need not hope to get the support of any person in whose veins Muslim blood is flowing. It is submitted that this speech comes in the ambit of corrupt practice as detailed in Section 123(3), (3A) and (4) of the Representation of the People Act, 1951."

The defect in the pleading, according to the learned counsel for the 1st respondent, is that paragraphs 3 and 4 of the petition do not specifically mention the particular classes who were embittered by the speech extracted in paragraph 4 of the petition, and which has been marked in this case as Ext. P6. I do not think that there is want of clarity or there is any vagueness in the pleading for the purpose of section 83(1)(b). The passage extracted in the petition itself shows which are the communities and classes affected by Ext. P6. In paragraph 4 of the petition, as already referred to, it has been further averred by the petitioner that the 1st respondent's speech was to win over the Muslim community. I do not think that the pleadings in the case regarding Ext. P6 is vague or defective. The learned counsel for the 1st respondent drew my attention to the decisions reported in *Hardwar Lal v. Kanwal Singh* (AIR 1972 SC 515), *Lakhi Prasad v. Nathmal* (AIR 1969 SC 583), *Manubhai v. Popatlal* (AIR 1969 SC 734) and *S. N. Balakrishna v. Fernandez* (AIR 1969 SC 1201). In AIR 1972 SC 515 the corrupt practice considered was one under sub-section (7) of section 123. Since what the petitioner did in that case was to merely mention the names of a few persons without giving any suggestion as to what their assistance was for the purpose of section 123(7), it was held that the election petition lacked in most vital and essential material facts to furnish a cause of action. The case on hand is entirely different and bears no comparison with the case decided by the Supreme Court. The case which led to the decision in AIR 1969 SC 583 was concerned with the corrupt practice of undue influence. In the election petition there, the material averments were contained in paragraph 4(c) and they centred round the publication of certain statements, which, according to the petitioner in that case, induced and caused deception in the minds of the electors. Section 123(2) of the Act was never relied on, and it was also found from paragraph 4(c) of the petition that it is not possible to spell out averments necessary to attract section 123(2). This decision also has

no application as far as the facts of this case are concerned. In AIR 1969 S.C. 734 I could not find any support to the 1st respondent's contention. In AIR 1969 SC 1201 the Supreme Court held that "section 83 is mandatory and requires the election petition to contain first a concise statement of material facts and then requires the fullest possible particulars. The word 'material' shows that the facts necessary to formulate a complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of particulars is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet". Neither in the written statement nor in the evidence of the 1st respondent, who was examined as R.W. 1, was there any suggestion that for want of particulars regarding corrupt practice the 1st respondent was in any way misled. Thus on merits too, the contention of the 1st respondent regarding the maintainability of the petition must fail.

7. Issue No. 2.—Sometime in the year 1974 difference of opinion arose between two groups in the Kerala unit of the Indian Union Muslim League. There was an attempt to reconcile the conflict, and certain agreements entered into were reduced to writing, and it was signed by the 1st respondent who was then also the President of the Indian Union Muslim League. That agreement has been marked in this case as Ext. P9. The conciliation was, however, shortlived in the sense that there was again an infight in the party and the Kerala unit split into two distinct groups. One group continued to be called the Muslim League, while the dissenting group assumed the name of Opposition Muslim League. In the last election the two groups joined rival camps, the Muslim League supporting the ruling United Front while the Opposition Muslim League, supporting the Opposition Front. The 1st respondent was the candidate put up by the Muslim League, while the 2nd respondent was the candidate sponsored by the Opposition Muslim League and its allies, namely, the Marxist Party, R.S.S., Jana Sangh, etc.

8. The only ground upon which the election of the 1st respondent is challenged is that certain speeches made by him and certain publications made, in a Malayalam Daily called Chandrika constitute corrupt practice falling within sub-sections (3), (3A) and (4) of section 123 of the Act. The petitioner tendered in evidence seven issues of the paper. The impugned publications broadly fall under two groups. Exts. P2 to P4, P7 and P8 contain matters not directly connected with the 1st respondent. Exts. P5, P6 and P6(a) are alleged to be reports regarding speeches made by the 1st respondent. The two groups apparently do not stand on the same footing and require separate consideration.

9. In view of the evidence on record it was fairly conceded by the learned counsel for the petitioner that the only question for decision is whether the publications relied on by him attract section 123(3A) of the Act. I may read that provision :

"123. The following shall be deemed to be corrupt practices for the purposes of this Act :—

(3A) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate."

On an analysis of the provision it could be seen that it takes in the following ingredients : (a) the promotion of or attempt to promote feelings of enmity or hatred between different classes of the citizens of India; (b) the promotion or attempt to promote enmity or hatred must be on grounds of religion, race, caste, community or language; (c) the attempt must be by a candidate or his agent or any other person with the consent of the candidate or his election agent; and (d) the object must be the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate. It may now be considered whether the publications tendered in evidence satisfy the aforesaid conditions.

Ext. P 2 is a copy of Chandrika dated, 1-3-1977 and the passage relied on by the petitioner is a request for contribution printed at the front page of the paper. The heading is "Pede Poruther Panan theru" which means "give funds to fight the battle". I am unable to find any statement in Ext. P 2 falling within section 123 (3A) of the Act.

Ext. P 3 is the copy of Chandrika dated 12-3-1977 and what is pointed out as a corrupt practice is the publication of a cartoon on the front page. The cartoon contains the figure of a pig over which is written 'Jana Sangh'. On one side of it sits the Marxist leader E.M.S. Namboodiripad and on the opposite side are sitting two of the leaders of the Opposition League. There is a note at the bottom of the cartoon which is to the effect that for the hungry, flesh of the pig is permissible. Islam does not permit the eating of pig's flesh unless a Musalman is about to die of starvation. Pig is a hated animal as far as the Muslims are concerned, and to call a Muslim a pig is considered to be very offensive. The Jana Sangh is caricatured as a pig thereby suggesting that it is an organisation to be hated by the Muslims. R.W.I., the 1st respondent admitted that calling a Muslim "Pig" is an abusive word—"It is an abuse". I do not think that it is necessary to go more into the implications of the cartoon. To an ordinary observer the cartoon will give the impression that the Muslims should hate Jana Sangh as pig. The cartoon has, therefore, the tendency to promote feelings of enmity or hatred between Muslims on the one part and the Jana Sangh and Marxists on the other.

Ext. P 4 is the issue of Chandrika dated 16-3-1977. The objectionable literature is a report under the caption "Vinathaleagiste koottalikal kalayalikal" "The friends of Muslim League are murderers." The report is to the effect that the then Home Minister Karunakaran spoke at Alleppey, Valapattanam, and Kaniapuram to the effect that the opposition Muslim League has sought the alliance of the Marxists who massacred the workers of the Muslim League. The statement attributed to the Home Minister is certainly capable of creating feelings of enmity and hatred between the Muslims and Marxists.

Ext. P 7 is a rather lengthy article shown to be written by Haji N. V. Muhammed Ali, Chandrika Readers' Forum, Qutar, and published in the issue of Chandrika dated 6-3-1977. There is reference to the association of the Opposition Muslim League with R.S.S., Ananda Marg, Naxalite and other reactionary forces. The heading is "Bharathan dharmayudhathiste puliye Karbale". The article contains references to the responsibility of the R.S.S. for looting and killing the Muslims. Ananda Marg people are referred to as the fearful group which gave leadership for murdering prominent people. There is repeated reference to the obstruction caused to the peaceful performance of religious rites of the Muslims, setting fire to mosques in the name of communalism and similar activities by the opposition groups. The article indeed contains plenty of materials for promoting ill-will and hatred between Muslims on the one part and the R.S.S., Ananda Marg people on the other.

Ext. P 8 is the copy of Chandrika dated 13-3-1977 and the objectionable passage is contained in a fairly long essay written by one K. M. Chummar.

10. Though the publications referred to above satisfy the first two ingredients of section 123(3A), namely the promotion of feelings of enmity and hatred between different classes of citizens of India on the basis of religion and community, they can be treated as instances of corrupt practice under Section 123(3A) only if the petitioner has succeeded in proving that the objectionable publications were made with the consent of the 1st respondent or his agent or by any other person with the consent of the 1st respondent or his election agent. It is the contention of the 1st respondent that he has nothing to do with the paper Chandrika, that he does not know to read and write Malayalam and that he is wholly ignorant of the abovesaid publications. But at the same time I am not prepared to hold that the 1st respondent has nothing to do with Chandrika. The Malayalam Daily Chandrika is owned by the Muslim Printing and Publishing Company Ltd., in which the Muslim League unit of Kerala owns shares worth rupees six lakhs. Shares worth rupees three lakhs stand in the name of Mr. C. H. Mohammed Koya, the Secretary of the League, while the remaining shares

worth three lakhs rupees stand in the name of Sri Shehad Thangal, the President of the Kerala Unit. The 1st respondent also is one of the Directors of the Muslim Printing and Publishing Company Ltd. The first sentence in paragraph 8 of Ext. P 9 reads as follows :—

"We are of the firm opinion that Chandrika should always reflect the ideals and policies of the Muslim League."

It refers to the transfer of the shares which stood in the name of the then President Shri Syed Abdulrahiman Baffakki Thangal to the new President Shri P.M.S.A. Pookoya Thangal. That paragraph also mentions the agreement to nominate as members of the Board of Directors the 1st respondent and two others. The last sentence is that decision regarding policy and other allied matters shall be taken by the Board of Directors after nominations of the Board of Directors are completed. The 1st respondent has no case that subsequent to the split in the party Chandrika at any time adopted a policy which was contrary to the policy of the Muslim League headed by the 1st respondent. No doubt, these facts and circumstances are not sufficient in the eye of law to infer that the 1st respondent consented to the offensive publications referred to above. So these publications technically do not attract section 123(3A) of the Act.

11. But the publications have relevancy in the sense that they characterise the Jana Sangh and R.S.S. as the enemies of Muslims. It is admitted by the 1st respondent when examined as R.W. 1 that Chandrika, the newspaper was implementing the common policy of the United Front, of which the Muslim League was a party. Consequently, it is on the basis of these facts and circumstances that the report of the speeches made by the 1st respondent in Ext. P 6 are to be considered.

12. Ext. P 5 is the report in Chandrika dated 17-3-1977 regarding the speeches made by the 1st respondent in various places. I do not find any objectionable passage in Ext. P 5 to invoke section 123(3A). That apart, Ext. P 6(a) is not specifically mentioned in the petition. Ext. P 6(a) is a matter printed at page 4 of Chandrika dated 18-3-1977. The heading is given as "Exhortation of the President of the Union League", and the sub-heading is "Janadhyaptya virudhavargiya fasist pinthiruppan kootukettu". One paragraph has the heading "Nadhikalagi ozhukiya nunapaksharakham". Under that sub-heading it is stated that R.S.S. and Jana Sangh are responsible for shedding the blood of the Muslims who are a minority through communal riots almost every year. Those groups are again referred to as responsible for setting fire to the mosques at Tellicherry. There is a definite attempt through those statements to create enmity and hatred between the Muslims on the one part and the R.S.S. and Jana Sangh on the other. Ext. P 6(a) publication is not specifically referred to in the election petition, and consequently, I cannot treat Ext. P 6(a) as hit by section 123(3A). I was referring to the scope and evil consequences of Ext. P 6(a) only for the purpose of understanding the true nature and effects of Ext. P 6, specifically pleaded in the petition.

13. From the foregoing analysis it follows that the petitioner can succeed only if he establishes that Ext. P 6 is hit by section 123(3A). The passage reads as follows : "Vadake Indiyale pala sthalathum Thalaseriyilum Muslim Janasamanyathe Konnodukayum parpavanamaya pallikale agnikkirayakkukakum pavapetta musalmanmare vargiya pinthiruppan palayalhiyilekku nayikkukayum cheyyunse vimataleagarku samudhayam oarikkalum mappu nalkayilennum Indian Union Muslim League President Ibrahim Sulaiman Sait Pulickal paranju.

Nunayum Kupracharavelayum nadathi samudhaya nethakkale karithechu kanikkanum hinduvargiya shaktikalakkum marxistukalkkum -e- sanupdhayathe oaty kodukkuvan shramikkunna vimathanethakkal Marhum Khallademiltathu Isme It Sahiyum Baphakl Thangalum ooty valarthiya Samghadananu nasippikkan Shriamikkunnathexnun adhenam oarmapeduthy. Seat Kittatha rashtriyaneethakkaludeyum mathrusamkhandanayil minnu vikhadichu poyavarudeyum anadhalayamanu Janasamghamthinte netiruthwathilulla Janathapartyennum avare Assembly Kanano Parliament Kanano sirassil Islaminte rakthamozhukunna caru musliminteyum vote kittunnum vimathanmar vyamobikendennum adheham vyaktiamakki. Pulikkal angadiyil chernna Aikyamunnenni pothuyogathil prasagikkukayayirunnu Setu sahib.

Cherukadu Panchayat President P.P. Abdul Gafulmoulavi adhyakshatha vahichha yogam P.P. Ummer Koya Ulkhadnam Cheythu. The first paragraph states that the Muslim community will not pardon the dissidents for leading the poor Muslim to the conservative communal camp and who are helping the Jana Sangh, which burned down the holy mosques and massacred the Muslims at Tellicherry and at various other places in North India. The second paragraph refers to the efforts of the leaders of the opposition League to mortgage the Muslims to the Marxists and the Hindu communalists and also to malign the leaders of the Muslim community by false propaganda. It is further observed that the Janatha Party is under the leadership of the Jana Sangh and that the dissidents need not be under the false impression that they will be remitted to see the assembly or parliament because no Muslim in whose head the blood of Islam flows will vote for them. The passage apparently accuses the Jana Sangh and R.S.S. for indiscriminately massacring the Muslims and also for setting fire to holy mosques. It brands the Jana Sangh and others as Hindu communalists and there is the unequivocal declaration that a Muslim will never vote for them.

14. The first question concerning Ext. P 6 is whether it is an authentic version of the speech rendered by the 1st respondent at Pulikkal. It is common case that the 1st respondent made his speech in English and it was translated by one T. C. Mohammed, a sub-editor, printer and publisher of Chandrika deposed as follows : "Chandrika patram uthamaviswasathodeyanu League nthakkalude prasamgamalum prasidhikaranangal presidhappendutharullathu". He further deposed that Shri T. C. Mohammed is a good translator. Regarding Ext. P 6 and P 6(a) this is what he says "E randu reportum sathyasandhamayittu report cheythirikunnathanu. He added Rtinte prasamgamalil addheham yeppatti thirutha vannittundo" (Q) Eante oarmayil illa (Ans.) R.W. 1 deposed : "In Ext. P 6 speech I had spoken that Jana Sangh was responsible for the riots. Ext. P 6 speech is made by me. It contains a statement that Jana Sangh was responsible for the riots in Tellicherry and in North India and that the dissidents have now joined company with such Jana Sangh." His deposition contains yet another passage : "Are we to vote for the party which has banned R.S.S., or to R.S.S. which is spreading Muslim blood every year is the question posed by you to the voters. Is it correct (Q). Yes, I have posed such question to the electorate (Ans.)." It is, therefore, clear that in Ext. P 6 speech the 1st respondent declared that Jana Sangh was responsible for massacring Muslims and for setting fire to mosques in Tellicherry. Further, at the final hearing of the case, the 1st respondent did not challenge the authenticity and correctness of Ext. P 6 report.

15. The first contention raised by the 1st respondent regarding Ext. P 6 is that the report contains only portions of the speech rendered by the 1st respondent, and in the absence of the entire, speech on record it will not be proper to take a decision on the basis of Ext. P 6 alone. It is true that Ext. P 6 does not purport to contain the full speech but the important aspect which has to be noted is that no contention has been raised in the written statement to the effect that there were other portions in the speech of the 1st respondent which mitigated the evil contained in Ext. P 6 or which could give a rational basis for Ext. P 6. When the 1st respondent gave evidence as R.W. 1 there was not even a distant suggestion that for want of production of the entire speech Ext. P 6 could not be relied on. Again, when the petitioner gave evidence as P. W. 1 no question was asked to him regarding the other matters, if any, spoken by the 1st respondent. It is only at the time of the final hearing that this contention has been urged. In the absence of any pleading, issue or evidence regarding this contention, I am unable to accept the argument advanced by the learned counsel for the 1st respondent regarding the non-production of the entire speech. The learned counsel drew my attention to the decision reported in B.P. Maurya v. P.V. Shastri (A.I.R. 1970 S.C. 522). In that case, on the basis of a publication the election was challenged under Section 123(3A) and (4). While considering the question of the applicability of Section 123(3A) the Supreme Court observed as follows :—

"Suggestions that attempts are made to accentuate the differences between the Hindus and Harijans in

the article cannot be extracted isolation from the entire speech."

I am unable to understand how this decision supports the contention urged by the 1st respondent. It is true that Ext. P 6 must be read as a whole for deciding whether it is hit by section 123(3A). The decision cited does not support the 1st respondent's case that the other portions of his speech also should have been proved, in so far as he has not put forward the contention that the other matters, if any, spoken by him in that meeting could, as referred to above, removed the evil contained in Ext. P 6. The publication which came up for consideration in Kultar Singh v. Mukhtiar Singh (AIR 1969 SC 141) relied on by 1st respondent related to the construction of a poster. The Supreme Court observed as follows :—

"The principles which have to be applied in construing such a document are well settled. The document must be read as a whole and its purport and effect determined in a fair, objective and reasonable manner. In reading such documents, it would be unrealistic to ignore the fact that when election meetings are held an appeals are made by candidates of opposing political parties, the atmosphere is usually surcharged with partisan feelings and emotions and the use of hyperboles or exaggerated language, or the adoption of metaphores, and the extravagance of expression in attacking one another, are all a part of the game; and so, when the question about the effect of speeches delivered or pamphlets distributed at election meetings is argued in the cold atmosphere of a judicial chamber, some allowance must be made and the impugned speeches or pamphlets must be construed in that light. In doing so, however, it would be unreasonable to ignore the question as to what the effect of the said speech or pamphlet would be on the mind of the ordinary voter who attends such meetings and reads the pamphlets or hears the speeches."

This dictum also is of no assistance to the 1st respondent except in the matter of insisting on the interpretation of the offending passages in Ext. P 6 after reading the entire report. The other proposition laid down in that case relates to down in that case relates to the facts to be borne in mind when the impugned publication is interpreted by the court. The 1st respondent also relied on paragraph 28 of the decision reported in Jagdev Singh v. Pratap Singh (A.I.R. 1965 SC 183). There the court held as follows :—

"Speeches made at political meetings held for canvassing votes must be examined in the context of the atmosphere of a political campaign and the passions which are generally aroused in such a campaign. In adjudging whether an appeal is made to the language of the candidate, a meticulous examination of the text of the speech in the serene atmosphere of the court room picking out a word here and a phrase there to make out an offending appeal to vote for or against a candidate on the ground of language would not be permissible."

Here also what the court has laid down are the principles to be borne in mind in construing a speech, and it has been held that picking out a word here and a phrase there from the speech to make out that the appeal to the voters was offensive is impermissible. Here again, the dictum merely relates to the document which the court is construing. Undoubtedly it is not permissible to pick out words or phrases from Ext. P 6 dissociated from the context in which they occur for the purpose of deciding the question whether section 123(3A) is offended. I am, therefore, rejecting the contention of the 1st respondent that in the absence of the full speech delivered by the 1st respondent Ext. P 6 report cannot be acted upon.

16. The second contention urged by the 1st respondent is that the passages of his speech referred to in Ext. P 6 have not the effect of promoting or attempting to promote enmitpor hatred between different classes of citizens of India

on the basis of religion or community. It is admitted by both sides that for a long time before Ext. P 6 speech was delivered there was some sort of ill-feeling between the Muslims on the one part and the Jana Sangh and R.S.S. on the other. It is on the basis of that circumstance that the 1st respondent now contends that Ext. P 6 does not promote or attempt to promote enmity or hatred. In other words, in substance what the 1st respondent says is that there is already some fire and therefore he is justified in adding dangerous fuel for that fire to spread. This too appears to be a case which was never in the contemplation of the parties from the point of view of the pleadings or the evidence in the case. I have already explained the contents of Ext. P 6. So, the question is whether in view of the pre-existing ill-will between the Muslims on the one part and the R.S.S. and Jana Sangh on the other, any further mischief is done by Ext. P 6. The contention of the 1st respondent in this connection is that there is no evidence to show that the pre-existing ill-will have been aggravated. If it is a question of existence of proof, I think, there is sufficient evidence. P.W. 1, P.W. 2 and P.W. 4 are persons who heard the speech and who deposed about the matters reported in Ext. P 6. P.W. 1 deposed that the publications and the speeches referred to by him caused a change in the attitude of the Muslims of the constituency. The Muslims who originally agreed to support P.W. 1 and the 2nd respondent subsequently refused to give any assistance on the ground that the opposition League has joined hands with persons who massacre Muslims and set fire to mosques. There was no effective cross-examination on that aspect. P.W. 2 was one who heard the speech. He deposed that the speech inflamed the communal passions and has a tendency to aggravate communal disharmony. He would add that other people also gained the same idea as told to him by him. There is no effective cross-examination of P.W. 2 on this aspect. P.W. 4 also has deposed that the majority of the people who participated in the meeting which led to Ext. P 6 were Muslims, and he heard the opinions expressed by certain people regarding that meeting. People gained the impression that if what the 1st respondent spoke in true it is essential to defeat the candidate of the Opposition League. He further deposed that the speech was one calculated to cause communal disharmony and also to exploit the communal feelings of Muslims.

17. The real question arising for decision is the effect which Ext. P 6 report is likely to cause in the mind of the reader. I may repeat a portion of the passage already extracted from the decision of the Supreme Court in *Kulhar Singh v. Mukhtiar Singh* (AIR 1965 SC 141). The guiding principles to be followed in construing publications as held by the Supreme Court are as follows :

"In doing so, however, it would be unreasonable to ignore the question as to what the effect of the said speech or pamphlet would be on the mind of the ordinary voter who attends such meetings and reads the pamphlets or hears the speeches."

The speech was made by none other than the President of the Indian Union Muslim League. It was a largely attended gathering of which a sizeable portion consisted of Muslims. There was already some sort of ill-feeling in the minds of the Muslim population as against the Jana Sangh and R.S.S. What the 1st respondent spoke according to Ext. P 6 was that the Opposition League were leading the poor Muslims to the conservative communal camp and are helping the Jana Sangh which burned mosques and massacred Muslims at Tellicherry and at various other places in North India. What else is this if it is not aggravating the existing distrust between the two groups? While in the witness box, R.W. 1 was asked this question : "Do you feel that by calling these people as reactionary and murderers you can bring communal harmony?" The answer was "we want to understand the electors the dangers of the reactionary communal forces". Another question was : "Do you mean to say that you had a feeling that Jana Sangh, R.S.S. and Marxist Party were involving in massacre and arson?" The answer was "we thought that the Jana Sangh was responsible for the riots", and he added that that is based upon an enquiry report which has been marked at the time of argument as Ext. X10. A pointed question was asked to him by court : "There is already a feeling among the Muslims that R.S.S., Jana Sangh and Marxists are their enemies. By the speeches, reports and publications made in Chandrika that feeling of the ordinary Muslim is still confirmed. If

I say so, (Q). The answer was "Now I will say Jana Sangh and R.S.S. and Marxist are against the interests of the minority and there is a belief based on reports of the commission that they have been involved in communal riots." In the witness box he admitted that he wanted to warn the people of the danger in associating with R.S.S. and Jana Sangh. It is thus crystal clear that the object of the speech was to administer a further warning reminding the Muslims of the consequences they will have to face if the Opposition League wins the election with the assistance of Jana Sangh, R.S.S. and Marxists. In the mind of an ordinary Muslim, I think, the speech will aggravate the existing communal disharmony. It shall not also be forgotten that under section 123(3A) on "attempt to promote" enmity or hatred between different classes is sufficient to attract the provision. By the plain wording of the contents of Ext. P 6 it is obvious that there was at least an attempt on the part of the 1st respondent to create hatred and fear in the minds of the Muslims because according to the speaker R.S.S. and Jana Sangh are people who are indulging in massacre of Muslims and setting fire to mosques. I do not also feel that the Marxists and Jana Sangh who are the targets of this attack are likely to treat the speech as an encomium to them. To be called a murderer or a person who sets fire to religious institutions is perhaps one of the worst kind of allegations that can be made against any person and let alone the R.S.S., Jana Sangh and the Marxist.

18. The only other argument advanced by the 1st respondent regarding Ext. P 6 is that the Jana Sangh is a political party and that it is within the right of a candidate to use similar epithets against an opposing political party. I do not find any warrant for such a proposition either in the wording of section 123(3A) or in decided cases. In this connection my attention was drawn by the petitioner's learned counsel to the decision of the Supreme Court reported in *Z. B. Bukhari v. B. R. Mehra* (AIR 1975 SC 1788). One of the questions considered in that case was whether a speech contained allegations attracting section 123(3A) of the Act. In the course of the speech the appellant in that case (the returned candidate) was reported to have said that if the Congress government brought in "amendments in our religious law", the "battle would be fought in every street", as "the question of religion has arisen". The appellant in that case also threatened the ruling Congress party with open rebellion if attempts are made to change the Muslim personal law, which he called a question of religion. The High Court held that those statements amounted to violation of section 123(3A) in as much as the language used by the appellant promoted hostility between Hindus and Muslims. The Supreme Court confirmed the decision. The point urged by the appellant in that case was regarding the change of Muslim personal law if the Congress party forms the government. The Congress party undoubtedly was a political party, and so there is no meaning in the contention of the 1st respondent that because Jana Sangh is a political party any epithet could be used to criticise that case the apprehension centred round the prospect of change in the personal law of Muslims. In this case the threat as alleged by the 1st respondent is massacre of Muslims and setting fire to holy mosques. I think, the undesirable nature of Ext. P 6 is self-evident and does not require further elucidation. The accusation contained in Ext. P 6 against the Jana Sangh is of such a nature as to aggravate the already existing distrust between the two classes of citizens. I have, therefore, no hesitation to hold that the statements in the speech of the 1st respondent reported in Ext. P 6 promote or at least there was an attempt to promote feelings of enmity and hatred between Muslims on the one part and Jana Sangh on the other. I hold that the 1st respondent is guilty of a corrupt practice within the meaning of section 123(3A) of the Act.

No other question was agitated before me by the 1st respondent. A separate order under section 99 of the Act is simultaneously passed.

19. Issue No. 3.—In view of the findings entered above, it is proved that the 1st respondent is guilty of the corrupt practice provided in sub-section (3A) of section 123 of the Act, and the election cannot be sustained.

In the result, I hereby set aside the election of the 1st respondent to the Lok Sabha from the Manjeri Parliamentary Constituency, and declare that election as void. The election petition is allowed to that extent, and the prayer to declare the 2nd respondent as elected is rejected. The 1st respondent

will pay the costs of the petitioner. Advocate's fee is fixed at Rs. 1,000/-.

The Office will communicate the substance of this decision to the Election Commission and the speaker of the Lok Sabha. It shall also send a authenticated copy of the decision, as soon as it is ready, to the Election Commission, as provided in Section 103 of the Act.

DATED : 6th December, 1977.

Sd/-.

N. D. P. NAMBOODIRIPAD, Judge.

[No. 82/KL-HP/18/77]

I. K. K. MENON, Secy.

New Delhi, the 2nd February, 1978

S.O. 400.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order, dated 2nd December, 1977, by the High Court of Jammu and Kashmir at Jammu, in Election Petition No. 1 of 1977.

HIGH COURT OF JAMMU & KASHMIR AT JAMMU

Election Petition No. 1 of 1977

Sohan Lal

Versus

Th. Baldev Singh

PRESENT :

Mr. V. K. Gupta :

M/s. R. N. Bhalgotra and Amar Chand, S. P. Gupta.

Petitioner, Shri Sohan Lal son of Shri Duni Chand, an elector, has filed this petition challenging the election of respondent, Th. Baldev Singh, who was declared elected to the Parliament from the Jammu Parliamentary Constituency in the elections held in March, 1977. The result of the election was declared on 23-3-1977.

The election of the respondent has been challenged *inter alia* on the ground that the respondent committed certain corrupt practices as envisaged under Section 123 of the Representation of the People Act, 1951 (hereinafter called the Act) during his election campaign. Among the corrupt practices alleged to have been committed by the respondent are the corrupt practice of :

- (1) making false publication of facts, knowing it to be false, in respect of the candidature of Sheikh Abdul Rehman and Shri Balraj Puri, the two unsuccessful candidates with a view to prejudicially effect their elections;
- (2) incurring of expenditure more than that authorised by law;
- (3) canvassing for votes in the name of religion; and
- (4) making false statements of facts in regard to the candidature of Sheikh Abdul Rehman, an unsuccessful candidate by falsely proclaiming himself to be the official candidate of Janta Party knowing that the said assertion was false and that the official candidate was Sheikh Abdul Rehman.

The respondent contested the petition and while denying the allegations made against him in his written statement he raised certain preliminary objections with regard to the maintainability of the election petition. The objections raised in the written statement had also been raised in two separate applications dated 19-9-1977 (filed on 23-9-1977) and 12-11-1977.

It is maintained by the respondent that the election petition had not been properly presented and that the copy of the petition filed in the court for service upon the respondent and actually served upon him did not comply with the mandatory requirements of S. 81(3) of the R.P. Act and the petition was liable to be dismissed on that score. The non-compliance with the requirement of Section 81(3) complained of are :

- (i) that the copy of the petition served upon the respondent was not 'attested' by the petitioner under his own signatures as a 'true copy' of the petition;

- (ii) that the copies of the annexures which form part of the election petition were not served upon the respondent nor were spare copies of the same filed in the court along with the election petition for service on the respondent.

It is also maintained that the requirements of Section 83 of the Representation of the People Act, 1951 had not been complied with inasmuch as (i) the affidavit filed along with the election petition was not in the form prescribed by law and (ii) various annexures filed along with the election petition had neither been signed nor verified by the petitioner.

Besides these objections, it is also maintained, in the written statement, that various allegations of corrupt practices levelled against the respondent were vague and lacking in material particulars and the allegations deserved to be struck off. It is also asserted that because of vagueness of allegations the respondent was not able to file complete written statement to the election petition.

Rejoinder was filed to the Written statement and it was maintained by the petitioner that the petition had been properly presented and that since the copy of the petition served upon the respondent had been signed by the petitioner, there was 'substantial compliance' with the provisions of the Act. It was also asserted in the rejoinder that the copies of the annexures are not required to be served upon the respondent and as such there was no contravention of the provisions of Section 81(3) of the Act. It was also maintained that the affidavit filed with the petition was in accordance with law and that the allegations of corrupt practices were not vague.

From the pleadings of the parties, I framed the following preliminary issues on 12-11-1977 :

- (1) Is the election petition liable to be dismissed for non-compliance with the provisions of Section 81(3) of the Representation of the People Act, 1951.
- (2) Is the petition liable to be dismissed for non-compliance with the provisions of Section 83 of the Representation of the People Act. ? O.P.R.
- (3) Are the allegations pertaining to Corrupt practice vague and lacking in material particulars. If so, what is its effect ? O.P.R.

At the commencement of the arguments on the preliminary issues, the learned counsel for the parties submitted that issue No. 2 may be recast and by my order dated 17-11-1977, issue No. 2 was recast as under for greater clarity :

ISSUE NO. 2 :

Does the petition not comply with the requirements of Section 83 of the Representation of the People Act ? If so what is its effect ? O.P.R.

The learned counsel for the parties thereafter addressed arguments on the preliminary issues :

My findings on various issues are :

ISSUE NO. 2 :

So far as issue No. 2 is concerned the two-fold objections raised on behalf of the respondent are that (1) the annexures filed with the petition have not been signed and verified by the petitioner at all as required by law and (ii) that the affidavit filed in support of the election petition is not in the prescribed form.

Dealing with the first objection first, it is not disputed that all the annexures filed along with the election petition have neither been signed nor verified by the petitioner. S. 83(2) of the Act provides that schedules and annexures to the petition shall also be signed by the petitioner and verified by him in the same manner as the petition. S. 83(2) of the Act cannot be visited for non-compliance with the question that requires determination is what is the effect of non-compliance with Section 83(2) of the Act ? Undoubtedly, the penalty contemplated under Section 86(1) of the Act cannot be visited for non-compliance with the provisions of Section 83(2) of the Act. What then is the effect of non-compliance shall be presently examined.

Rule 8 of the rules relating to the trial of election petitions as framed by this Court in March 1967 provides :

"After the petition is presented, the Deputy Registrar shall examine the petition with a view to seeing whether or not it is in conformity with the requirements of law and the rules applicable to the same and (if) it is not in conformity with the laws and rules, point out the defects to the party or the advocate concerned, who shall remove the same within two days failing which the matter will be referred to the Judge by the Deputy Registrar."

It is, therefore, the duty of the Deputy Registrar of the Court to whom an election petition is presented to examine the same with a view to seeing whether or not the petition is in conformity with the requirement of law and then point out the defects to the petitioner and/or his counsel and give him an opportunity to ratify the defect and on his failure to do so refer the matter to the Judge designated to hear the petition. The Deputy Registrar does not seem to have pointed out the defect to the petitioner, in the present case. Mr. Gupta submits that he is prepared to ratify this formal defect by having the petitioner verify and sign all the annexures.

Section 87(1) of the Act provides :

"Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the High Court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (5 of 1908) to the trial of suits".

Under the Code of Civil Procedure, a defect in the verification of a plaint can be permitted to be removed on such terms as to costs etc. as the court may impose. The same position would be true, in my opinion, in the case of an election petition also.

In *Muraka Radhey Shayam Ram Kumar Vs. Roop Singh Rathore and others* (AIR 1964 S.C. 1545) it was held that a defect in the verification in the matter of an election petition can be permitted to be removed and that such a defect does not attract the penalty under S. 86(1) of the Act.

In view of the above authoritative pronouncement by the Supreme Court, although there has been non-compliance with the provisions of S. 83(2) of the Act in-as-much-as the annexures have not been signed and verified by the petitioner, he has to be given an opportunity to cure the technical defect and the petitioner cannot be non-suited on that account.

Coming now to the (ii) objection of the respondent with regard to the affidavit not being in a proper form and the effect thereof. The proviso to Section 83(1) lays down that where the petitioner alleges any corrupt practice then the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegations of such corrupt practice and the particulars thereof.

Rule 94 A of the Conduct of Election Rules, 1961 provides that the affidavit referred to in the proviso to Sub-section (1) of S. 83 shall be sworn before a magistrate of the first class or a Notary or the Commissioner of Oath, and shall be in Form 25 appended to the said Rules.

A perusal of the affidavit filed with the petition in the present case shows that it is not in Form 25, which is the prescribed form under the Conduct of Election Rules, 1961. The importance of an affidavit in Form 25 lies in the fact that the petitioner is required to disclose at the earliest opportunity as to which of the allegations relating to corrupt practices are based on his personal knowledge and which of the allegations are based on the information received from others. This assists the court in appreciating the evidence led in the case at the trial.

However, I find that the affidavit filed in support of the petition is a detailed one and though not in the prescribed form, yet, in substance it does comply with the requirement as required by Form 25. Again, this is one of the defects which should have been pointed out by the Deputy Registrar under Rule 8 of the High Court Rules relating to the election petition. In any case the mere non-submission of the affidavit in the form prescribed under the Conduct of Election Rules, in my opinion, is not a fatal defect inviting the penalty

of dismissal of the petition and petitioner can be granted an opportunity to file a fresh affidavit in Form 25.

As a result of the above discussion, my findings on issue No. 2 are that though the petition does not comply with the requirements of S. 83 of the R.P. Act in as-much-as the annexures filed with the petition, which are an integral part thereof, have not been signed and verified by the petitioner, and the affidavit is also not in the prescribed form, yet, the petitioner has to be given an opportunity to ratify the defect in the verification of the annexures and submit a proper affidavit but the petition is not liable to be dismissed on account of the non-compliance with the provisions of Section 83 of the Act.

ISSUE NO. 3 :

Before examining the objections relating to the lack of particulars of the various corrupt practices alleged in the petition, it is necessary to refer to the requirements of Section 83 of the Representation of the People Act, as interpreted by their Lordships of the Supreme Court in *S. N. Balakrishana V. G. Fernandez* (AIR 1969 SC 1201). *Hidayatullah C.J.* (as his lordship then was), speaking for the court summed up the legal position in these words :

"The section is mandatory and requires first a concise statement of material facts and then requires the fullest possible particulars. What is the difference between material facts and particulars? The word 'material' shows that the facts necessary to formulate a complete cause of action must be stated. Omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. The function of particulars is to present as full a picture of the cause of action with such further information in detail as to make the opposite party understand the case he will have to meet. There may be some overlapping between material facts and particulars but the two are quite distinct. Thus the material facts will mention that a statement of fact (which must be set out) was made and it must be alleged that it refers to the character and conduct of the candidate that it is false or which the returned candidate believes to be false or does not believe to be true and that it is calculated to prejudice the chances of the petitioner. In the particulars the name of the person making the statement, with the date, time and place will be mentioned. The material facts thus will show the ground of corrupt practice and the complete cause of action and the particulars will give the necessary information to present a full picture of the cause of action. In stating the material facts it will not do merely to quote the words of the section because then the efficacy of the words 'material facts' will be lost. The fact which constitutes the corrupt practice must be stated and the fact must be correlated to one of the heads of corrupt practice. Just as a plaintiff without disclosing a proper cause of action cannot be said to be a good plaintiff, so also an election petition without the material facts relating to a corrupt practice is no election petition at all. . . . The entire and complete cause of action must be in the petition in the shape of material facts, the particulars being the further information to complete the picture."

This view of law has been re-affirmed by their Lordships of the Supreme Court in *Hardwari Lal Vs. Kanwal Singh* (1972) 1 Supreme Court cases 214 where *Raj, J.* after analysing the aforesaid judgment observed :

"First Section 83 of the Act is mandatory and requires first a concise statement of material facts and then requires the fullest possible particulars. Second, omission of a single material fact leads to an incomplete cause of action and the statement of claim becomes bad. Third, the function of particulars is to present in full a picture of the cause of action to make the opposite party understand the case he will have to meet. Fourth, material facts and particulars are distinct matters. Material facts will mention statements of fact and particulars will set out the names of person with the date, time and place. Fifth, material facts will show the ground of corrupt practice and the complete cause of action and the particulars will give the necessary information to

present a full picture of the cause of action. Sixth, in stating the material facts it will not do merely to quote the words of the section because then the efficacy of the material facts will be lost. The fact which constitutes a corrupt practice must be stated and the fact must be correlated to one of the heads of corrupt practice. Seventh, an election petition without the material facts relating to a corrupt practice is no election petition at all. A petition which merely cites the section cannot be said to disclose a cause of action where the allegation is the obtaining or procuring of assistance unless the exact type and form of assistance and the person from whom it is sought and the manner in which the assistance is to further the prospects of the election are alleged as statements of facts."

It is in the light of these principles that the objections of the respondents have to be examined.

In Para 11 of the petition it is alleged that the respondent and/or his agent with his knowledge and consent committed corrupt practices within the meaning of S. 123(4) of the Act. This para merely gives the ingredients of the corrupt practice contained in Section 123(4) of the Act. It does not give out any facts much less material facts and merely recites the words of the section.

By a joint reading of sub paras (ii) and (iii) of para 11 it transpires that the petitioner has made allegations to the effect that a false representation was attempted to be made before the Returning Officer with regard to the candidature of Sheikh Abdul Rehman. Although, it is not specifically stated in these sub-paras as to who made the representation, yet, it resort is had to para 11 it can be inferred that the representation is alleged to have been made "by the respondent and/or his agent with his authority knowledge and consent..." strictly speaking, the material facts required to be given in these sub-paras appear to be lacking and in any case very vague. That apart, there appears to be complete lack of particulars in these paras. There is no mention of the date or the place or the manner in which the false representation was made before the Returning officer. It is even not disclosed as to whether the false representation was made by the respondent himself or by some of his agents and in case of later as to who those agents were.

In Sub-para (iv) of para 11, allegations have been made regarding the publication of a poster to mislead the electorate. Here again there is no mention as to the date when the poster was published, the place of publication, the press where it is alleged to have been printed and the manner of its publication. It is not even disclosed as to whether the poster was published by the respondent himself or by someone else with his consent or knowledge.

In sub-para (v) of para 11 allegations have been made regarding the publication of a poster, Annexure 'C' containing false statements of facts concerning the candidature of Sheikh Abdul Rehman. There is again no mention as to when this poster was published; the press where it was printed; the place where it was published and the persons who are alleged to have published it or the manner of its publication.

In Sub-para (vi) of para 11 allegations have been made with regard to the publication of a poster annexure 'D' "in the name of Publicity Secretary of Janta Party" containing false facts which were known to be false to the respondent regarding candidature of Sheikh Abdul Rehman. There is no mention about the date when the said poster was printed, the name of the press from where it was printed; the manner of publication. The places of publication have also not been disclosed.

Sub-para (vii) of para 11 of the petition also suffers from the same vice. The petitioner has not given the location where the office was set up or the name of the persons who set up the office and when. It has also not been disclosed as to who published the false facts alleged by the petitioner. As a matter of fact this sub-para is so vague that it is not possible even to find out as to what is the allegation of the petitioner. Neither the date when the false statements are alleged to have been published nor the manner or the places of publication have been disclosed.

Sub-para (viii) of para 11 contains the allegations of the petitioner to the effect that the respondent got published "through his election agents two posters" marked 'F' and 'G'. The name of the election agents has not been supplied. It has also not been mentioned as to where the posters were printed or the persons who got them printed. Neither the date of their publication nor the place or the manner of their publication has been supplied by the petitioner.

Para 12 of the petition is equally vague. It has not been mentioned as to how the accounts submitted by the respondent were not true copy of the daily accounts maintained by him.

In Sub-Para (i) of para 12 it has been alleged that the respondent collected more than Rs. 40,000 from public donations for being spent on the election and has spent more than this amount during his election campaign. The petitioner has not disclosed as to what he means by "more than this amount". The allegation is hopelessly vague. It has not been disclosed as to how the petitioner states that more amount was spent and for what purpose. The details and particulars are absolutely lacking.

In Sub-para (ii) of para 12 it has been stated that posters were got "printed and published in thousands which naturally were paid for by the respondent and all expenses in this regard have been suppressed by the respondent". Which were the posters, from where and by whom they were printed and the date on which they were printed or what amount was spent on them have not been disclosed. How the posters were published and who were the persons who are alleged to have published them have also not been disclosed. These particulars are lacking in the petition.

In Sub-para 12(b), while alleging that false proclamation was made by the respondent himself as well as his 'other election agents and followers' the names of the "other election agents and followers" have not been given. It has also not been disclosed as to when the said proclamation was made or the manner of its publication.

In Para 12(c) there are no details given as to who procured the chairs and other articles and from where. What expense was incurred for the same has also been kept back.

Again, in para 12(c) (actually it should be 'd') it is stated that the respondent had used 'other' taxies also. The petitioner has failed to give the registration number of those taxies; the date when they are alleged to have been plied; the names and particulars of the drivers of those taxies; the purpose for which the same were used or the place where the same are alleged to have been used. What was the total number of such taxies has also not been disclosed.

Para 13 also does not give the details as to who published the poster annexure 'K' or the date when it was published and the places where it was published nor does it disclose the manner of its publication.

Para 14 of the petition dealing with the alleged corrupt practice of canvassing for votes in the name of religion is equally vague and it has not been disclosed as to who printed the alleged poster; and from which press; the date when it was printed; the date which it was published; the name of the persons who are alleged to have published it etc.

From what has been shown above it follows that the petitioner has not given the particulars of the various corrupt practices alleged by him in the petition. The petition does not present "a full picture of the cause of action". An election petition which does not give complete information or present a full picture of the cause of action cannot be said to be a good election petition.

Section 83(1)(b) of the Act clearly shows that an election petition shall set forth full particulars of the corrupt practices alleged against the respondent including as full a statement as possible of the names of the parties alleged to have committed the corrupt practices and the date and place of their commission. These particulars as already, observed are lacking in the petition and Section 83(1)(b) of the Act has, therefore, not been complied with. The question which now arises for consideration is as to what is its effect on the election petition.

Reference in this connection may first be made to Section 86(5) of the Act which provide :

"The High Court may, upon such terms as to costs and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner as may in its opinion be necessary for ensuring a fair and effective trial of the petition but shall now allow any amendment of the petition which have the effect of introducing particulars of corrupt practice not previously alleged in the petition."

Thus, the Act itself empowers the High Court to grant an opportunity to the petitioner, upon such terms as to costs and otherwise as it may deem fit, to amend his petition and supply better and full particulars.

A similar question as is before us came up for consideration before the Supreme Court in *Balwant Singh Vs. Lakshmi Narain and others* (AIR 1960 S.C. 771) and their lordship held that an election petition was not liable to be dismissed only on the ground that full and complete particulars of the corrupt practice had not been given. Their lordships opined that in that event the petitioner had to be given an opportunity to apply for amendment to the petition so as to supply and furnish the necessary particulars.

In *D. P. Mishra v. Kanwal Narayan Sharma* and another (AIR 1970 S.C. 1477) once again while dealing with this aspect of the matter, their lordships observed :

"the particulars of the corrupt practice alleged in the petition may in appropriate cases be permitted to be introduced by amendment."

In view of the above discussion, I find that though the petition is vague and lacks in full particulars of the corrupt practice, yet, it is not to be dismissed straightaway and the petitioner is to be afforded an opportunity to seek permission of the court to amend the petition. Issue No. 3 is disposed of accordingly.

ISSUE NO. 1

M/s. R. N. Bhalgotra and Raizada Amar Chand learned counsel for the respondent, have reiterated the objections raised in the written statement and their two applications dated 19-9-77 (filed on 23-9-77) and 12-11-77. It has been urged that that provisions of Section 81(3) of the Act with regard to the supply of a 'true copy' of the petition to the respondent, are mandatory and the non-compliance with the requirement would invite the penalty of dismissal of the petition under Section 86(1) of the Act. It is maintained that since the copy of the petition served on the respondent had not been 'attested' by the petitioner to be a 'true copy' of the original petition and also because there are difference between the petition filed in the court and the one served upon the respondent, the copy served upon the respondent cannot be treated to be a 'true copy'. It is also urged that since the petitioner had not served on the respondent, copies of the annexures filed in the court, which were part of the petition, the copy of the petition served on the respondent ceased to be a 'true copy'. These defects, it is pointed out are the defects in the presentation of the petition and entail the penalty of dismissal of the petition under section 86 of the Act.

Mr. V. K. Gupta, appearing for the petitioner has on reply submitted that although the copy of the petition served upon the respondent had not been 'attested' by the petitioner to be a 'true copy' of the petition, yet, it was a carbon copy of the petition and the petitioner had signed the last page of the petition at two places which showed that there was substantial compliance with the provisions of S.81 of the Act and the petition was not liable to be visited with the consequences envisaged under section 86(1) of the Act. Mr. Gupta has further submitted that it was not necessary for the petitioner to serve copies of annexures on the respondent and that annexures were only required to be filed with the election petition in court. It is urged that only copy of the 'election petition' is required to be served on the respondent and not the documents etc. which accompany the original election petition.

Before I consider the relevant provisions of the Constitution of India and the Act it would be useful to notice the

following admitted facts with regard to the rival contentions raised at the bar and in the pleadings :

- (a) that the copy of the petition served upon the respondent has been signed by the petitioner at the last page but there is no endorsement to the effect that it was "an attested true copy of the petition" as required by Section 83.
- (b) that no spare copy of the annexures were filed along with the petition for service on the respondent and that no copies of annexures were in fact served on the respondent.

Article 329 of the Constitution of India and Section 80 of the Act unmistakably lay down that no election to any House of Parliament or any house of the State Legislature can be called in question except through an election petition presented in accordance with law. The provisions with regard to the presentation of the petitions and their trial are contained in the Act.

The provisions of the Act relevant for the decision of the objections raised by the respondent are :

Section 81(1)—"Presentation of petitions.—An election petition calling in question any election may be presented on one or more of the grounds specified in (Sub-section (1) of Section 100 and Section 101 to the (High Court) by any candidate at such election or any elector (within forty five days from, but not earlier than, the date of election of the returned candidate or if there are more than one returned candidate at the election and the date of their election are different, the later of those two dates)".

Section 81(3)—"Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition."

Section 83(1)—Contents of petition (1) An election petition.

- (a) shall contain a concise statement of the material facts on which the petitioner relies;
 - (b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and
 - (c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification of pleadings. (Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.
- (2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition."

Section 86(1)—Trial of Election Petition (1) The High Court shall dismiss an election petition which does not comply with the provisions of Section 81 or 82 or Section 117".

It would, thus be seen that under Section 81(3) of the Act, the petitioner is required to supply a 'true copy' of the petition to the respondent and such a copy has to be filed along with the election petition. The object of supplying a true copy of the petition for service upon the respondent is clearly to inform the respondent of the grounds on which his election is challenged so that he can precisely know the basis of the challenge to his election and meet them in his written statement. This is also intended to expedite the conclusion of the trial of an election petition which it is desirable should be expeditiously disposed of. Since an election contest is not an action at law or a suit in equity and is purely a statutory-provision, it is imperative that the statutory requirements of election law must be properly observed so that the object of the provisions are not frustrated.

In this general background we shall consider the objections raised by the learned counsel for the respondent.

The first objection of the respondent with respect to the non-compliance with the provision of S. 81(3) is that the copy served on the respondent is not attested to be a 'true copy' of the petition by the petitioner and that otherwise also there are certain differences in the copy of the petition served on the respondent and the original petition filed in the court.

The differences pointed out by the learned counsel for the respondent are (i) that in para 11 (vii) in the copy supplied to him it is stated that Annexure E is "filed" herewith whereas in the original petition it is stated that the annexure is marked "E1" (ii) that in para 11(vi) the word "the" before the word annexure is missing in the copy supplied to the respondent whereas it exists in the original petition. Besides these differences, it is not disputed that the copy served on the respondent is actually a carbon copy of the original election petition and it is also not disputed that the differences pointed out above are in respect of the corrections made in the original petition and the copy supplied to the respondent in the hand of the counsel for the petitioner and not in the typed material.

Urging that the provisions of Section 81(3) are mandatory and their non-compliance will entail the dismissal of the election petition, learned counsel for the respondent, has first relied upon *Sardar Mal V. Smt. Gayatri Devi* (AIR 1964 Rajasthan 223) in that case the copy of the election petition consisted of five sheets and there was no attestation on any of the pages of the copy of the petition that it was a 'true copy'. The petition was accompanied by three annexures A, B and C and no part of the annexures was also attested as a 'true copy' under the signatures of the petitioner. The contention of the answering respondent in that case was that the omission to attest the copy of the election petition at the foot of the petition that it was a true copy and the non attestation of annexures tantamount to non-compliance with the mandatory requirement of S.81(3) of the Act and the petition was liable to be dismissed in limine. This contention found favour with the election Tribunal and the election petition was dismissed. Against this decision an appeal was filed before the two learned Judges of the Rajasthan High Court and there was difference of opinion amongst the learned Judges with regard to the view taken by the Election Tribunal and, therefore, reference was made to a third Judge, Jagat Narayain J. (as his lordship then was). The learned Judge held that the requirement of S.81 (3) as regard the supply of the requisite number of copies as also their attestation as true copies under the signatures of election petitioner were mandatory; that the said provisions are not to be construed technically or strictly and if there is compliance in substance or in essence, with the said requirements, the petition should not be dismissed. On the peculiar facts of that case, it was, however, held that the requirements of S. 81(3) of the Act had not been complied with either 'substance' or in 'essence' and the petition was liable to be dismissed.

Reliance has next been placed on *Jageshwar Nath V. Ravindra Nath and ors* (29 ELR 241) wherein the same view has been reiterated.

The aforesaid authorities do not justify the contention of learned counsel for the respondent that for the mere non-compliance with the provisions of Section 81(3) of the Act the petition is liable to be dismissed irrespective of the extent of non-compliance. In fact it follows from these authorities that if there has been a substantial compliance with the provisions of Section 81(3) of the Act, the election petition is not to be dismissed in limine. The position in cases where there is total non-compliance would, of course, be different.

What is "substantial" compliance with the provisions of section 81(3) of the Act came up for consideration before their lordships of the Supreme Court on a number of occasions.

In *Ch. Subbarao V. Member Election Tribunal Hyderabad and others* (AIR 1964 S.C. 1027) the copies which were served on the respondent were signed by the petitioner but there was no attestation by the petitioner at the foot of the copy of the petition that it was a 'true copy'. The objection

regarding the omission to attest the copy being fatal to the petition was disallowed and it was held that as the copy which was served upon the respondent was signed by the petitioner, the mere non-attestation by him at the foot of the petition to the effect that the copy was a 'true copy' would not matter. It was also observed that the fact that the copy served on the respondent did in fact bear the signatures of the petitioner was "substantial compliance" with the provisions of S. 81(3) of the Act and the petition was not liable to be dismissed in limine.

In *Murarka Radhey Shyam Ram Kumar V. Roop Singh Rathore and others* (AIR 1964 S.C. 1545) where the objection was that though every page of the copy of the petition served upon the respondent had been signed by the petitioner yet, because of the absence of attestation at the foot of the petition to the effect that the copy was a True copy; the petition was liable to be dismissed under section 86(1) of the Act, it was observed that the mere omission to 'attest' the copy which was otherwise a true copy was not fatal to the case and that there was 'substantial compliance' with the requirements of law. Their lordships even went on to observe :

"The word 'copy' in sub section (3) of S. 81 does not mean an absolutely exact copy, but means that the copy shall be so true that no body can by any possibility misunderstand it. The test whether the copy is a true one is whether any variation from the original is calculated to mislead an ordinary person."

Again in *Dr. Anup Singh V. Shri Abdul Gani and others* (AIR 1965 S.C. 815) where the copies served on the respondents were the carbon copies of the original election petition and were signed by the petitioner also, the omission of the attestation of the copy as a 'true copy' was held not to be fatal. In this connection reference may also be made with advantage to *Dr. K. K. Mohamad Koya V. P. M. Sayeed* (AIR 1977 Kerala 160) wherein similar view has been adopted by the High Court of Kerala.

There, thus, appears to be consensus of Judicial opinion that if the copy of the petition served upon the respondent is signed by the petitioner and is otherwise a true copy of the petition, then merely because it is not attested at the foot of the petition by the petitioner to be a true copy of the petition it would not amount to non-compliance with section 81(3) of the Act, provided, however, that the copy served is so true a copy that there is no possibility of the respondent being misled.

Applying the aforesaid tests I find that the first objection of the respondent (as noticed above) with regard to the non-compliance with the provisions of S. 81(3) of the Act is not well founded. The copy of the petition served on the respondent is a carbon copy of the election petition. The last page bears the signatures of the petitioner at two places. The so called difference pointed out by the learned counsel for the respondent in the copy of the petition is served upon and the original petition are so minor and insignificant that they can be ignored even without consideration. By no stretch of imagination can it be said that the respondent could have been misled by the variations pointed out in the copy of the petition and the original. I would, therefore, hold that the election petition is not liable to be dismissed in limine for the mere omission of 'attestation' by the petitioner on the copy of the petition to the effect that it was a true copy of the petition or on account of the reason that there was some alleged variation between the copy and the original petition.

Coming now to the second objection raised by the respondent that since the annexures filed alongwith the petition were not served on the respondent, the respondent had been prejudiced in his defence and the copy of the petition served on him could, therefore, not be regarded as a 'true copy' of the petition. It is, as noticed earlier, undisputed that neither spare copies of the annexures were filed by the petitioner for service on the respondent nor were any copies of the annexures actually served on the respondent along with the copy of the petition.

The contention of Mr. Gupta appearing for the petitioner is that copies of the annexures are not required to be supplied to the respondent under any provision of the Act. It is urged that under section 81(3) of the Act it is only a copy

of the 'election petition' which is required to be filed for service on the respondent and that there is no requirement that the copy of annexures also should be served on the respondent. Mr. Gupta maintains that the word "election petition" occurring in section 81(3) of the Act cannot be read so as to mean the "election petition together with the annexures". Strong reliance is placed by Mr. Gupta on *Smt. Sahodrabai Rai Vs. Ram Singh Aharwar and others* (AIR 1968 S.C. 1079). In that case the allegations of corrupt practice were based on a Hindi Pamphlet which was attached as an annexure to the petition but the copy of the annexure was not supplied to the respondent. On behalf of the respondent it was contended that the non-supply of the annexure rendered the copy of the election petition as not a 'true copy' of the petition and, therefore, the petition was liable to be dismissed under section 86(1) of the Act. This contention was negatived and it was observed that since the contents of the pamphlet attached as an annexure, were reproduced in the petition itself in English, the respondent had the notice of the allegations and the contents of the pamphlet and as such the mere omission to serve a copy of the pamphlet on the respondent could not entail the dismissal of the petition. It was further observed that since the allegations, as contained in the pamphlet had been reproduced in the election petition, the annexures could not be properly treated as an integral part of the petition. Their lordships drew a distinction between an 'annexure' which forms a 'part' of the petition and an 'annexure' which is merely 'evidence' in support of the allegations in the petition and observed that there was no requirement under section 83(2) of the Act to supply an annexure which is produced only as evidence of averments in the election petition as distinct from an annexure which is filed with the election petition as an integral part of the petition itself. In the later case the non-supply of the annexure would amount to non-supply of a 'true copy' of the petition.

This authority, therefore clearly lays down that if an annexure is as integral part of the petition, then it is required

to be served, unless the annexure itself is reproduced in the petition in which case the 'annexure' is only in the nature of evidence which need not be served. Whether an annexure filed with the petition, and not reproduced in the petition is in the nature of evidence or an integral part of the petition, (which has to be looked into to know the allegations and the particulars of the corrupt practice alleged against the respondent), would depend upon the facts and circumstances of each case.

The question therefore that required consideration in this case is whether the various annexures in the present case are integral part of the petition or are only in the nature of evidence. Let us therefore look to the various paras of the petition to resolve this question.

Para 11 of the petition reads as under :—

"That false proclamation and publication of fact known to be false and believed not to be true in respect of conduct of a candidate and/or in relation to his candidature constitutes a corrupt practice within the meaning of Sub Section (4) of Section 123 of the Act of 1951, the Commission of which inevitably leads to avoidance of election of respondent who commits such a corrupt practice. Particulars of the aforementioned corrupt practices committed in respect of the candidature of Sheikh Abdul Rehman one of the contesting candidate by the Respondent and/or by his agent with his authority, knowledge and consent are given hereinbelow."

Sub-para (ii) reads as follows :

"That in this connection total circumstances worthy of note have been recorded by the Returning Officer himself in the order passed at the time of scrutiny and allotment of symbol to respondent. A copy of the order of the Returning Officer is enclosed herewith for ready reference and marked as Annexure 'A'.

Sub-para (iii) reads as under :

"That this attempt constituted publication of a statement and/or proclamation of a fact known to be false and/or believed not to be true in relation to the candidature of Sheikh Abdul Rehman, thus constituting a corrupt practice in terms of Sub-section (4) of Section 123 of the Act of 1951".

A combined reading of sub-para (ii) and (iii) above go to show that there are certain circumstances recorded by the Returning Officer in his order Annexure 'A' which according to the petitioner show that the respondent had made the publication of a statement and/or proclamation of such facts which was known to be false and/or believed not to be true by the respondent in relation to the candidature of Sheikh Abdul Rehman. No details of the circumstances or the nature of statements have been given in the petition. The order Annexure 'A' which allegedly contains the circumstances and the statement has not been reproduced in the petition either in full or in part. From a reading of para (ii) and (iii) above it is not possible for any one to know as to what statement or proclamation is alleged to have been made by the respondent, which he knew to be false and in any event did not believe to be true. Thus Annexure 'A' can be said to contain the particulars and the allegations of the corrupt practice, the facts whereof have been given in paras (ii) and (iii) of para 11 above, one has to look to the annexure to find out as to what the 'circumstances' were or what was that statement which is attributed to the respondent. Without these particulars having been supplied to the respondent, the election petition cannot be said to be complete or a 'true copy' of the election petition. It lacks some thing so vital that without the annexure it is not possible for the respondent to make any effective reply. Annexure 'A' to the petition, containing the particulars of the allegations regarding corrupt practice, is not evidence but an integral part of the election petition and the failure to supply its copy to the respondent would be a failure to supply a 'true copy' of the petition.

In para 11(v) it is stated :

"That another poster was published under the authority of so called incharge publicity of Janta Party Jammu and Kashmir proclaiming that respondent was the official candidate of the said party which fact again was known to be false by the respondent and believed to be untrue and constituted a corrupt practice being publication of false facts in respect of the candidature of the respondent as well as of Sheikh Abdul Rehman. This is also annexed herewith and marked as Annexure 'C'.

The contents of annexure 'C' have also not been reproduced in the petition and any one who saw the copy of the petition served on the respondent without the copy of the annexures, would not be in a position to know as to what false statement of fact in relation to the candidature of Sheikh Abdul Rehman is alleged to have been made by the respondent or any one else with his consent. Annexure 'C' therefore once again contains the material facts and particulars of the corrupt practice alleged against the respondent and annexure 'C' would be an integral part of the petition, the non-supply whereof would render the copy of the petition not to be a 'true copy' of the election petition.

Sub-para 11 (vi) read :

"yet another poster published in the name of publicity Secretary of Janta Party made known similar false facts and known to be false by the respondent in respect of candidature of Sheikh Abdul Rehman. The posters referred to is also enclosed herewith the petition and is captioned as"

شیخ عبدالرحمان اور انکے ساتھی جواب دیں

Annexure 'D'."

What were these false statement of facts which were published by the respondent, knowing the same to be false in respect of the candidature of Sheikh Abdul Rehman, have not been given anywhere in the petition. According to the petitioner, those false statements of fact are contained in Annexure 'D' to the petition. How could the respondent come to know the false statements allegedly attributed to him without reading Annexure 'D'? At best, para (vi) above can only be considered to contain allegations of a corrupt practices but the particulars of that corrupt practices have not been set out in the petition separately but are contained in Annexure 'D'. It was incumbent on the petitioner to either give the particulars of the corrupt practice in the petition itself or supply the particulars as contained in Annexure 'D' to the respondent by supplying him a copy of Annexure 'D' along with the petition to enable him to make an effective reply. This was not done. Annexure 'D' is

also an integral part of the petition as distinguished from mere evidence in support of a charge of corrupt practice. The non-supply of such an integral part of the petition to the respondent defeats the very object of supplying a 'true copy' of the petition to the Respondent.

Sub-para (viii) of para 11 reads as follows:

"That the respondent also published and got published through his election agent two posters containing the judgment of Shri B. L. Bhat, Sub-Registrar, Jammu, in which certain adverse remarks were made against Sheikh Abdul Rehman and the same was done with a motive of calculated prejudice to jeopardise the election prospects of Sheikh Abdul Rehman even when the respondent knew it that the petition by Sheikh Abdul Rehman for expungement of remarks was already moved in the High Court. The posters are attached herewith and marked Annexure 'F' and 'G'."

According to this averment, the respondent is alleged to have published and got published two posters containing the judgment of Shri B. L. Bhat, Sub-Registrar, Jammu with a motive of calculated prejudice to the election prospects of Sheikh Abdul Rehman. No other particulars of details are given in this paragraph or else where in the petition. The respondent could not, therefore, know the factum or particulars of the allegations contained in para 11(viii) without looking at the Annexure 'F' and 'G' copies whereof had not been supplied to him alongwith the petition. These annexures contain the allegations and particulars of the corrupt practice alleged against the respondent and form a vital part of the election petition. Their non-supply renders the copy of the election petition served on the respondent as not a true copy. Similar is the position with regard to the photographs marked Annexure 'E' and 'D1'. These photographs also form a vital part of the petition and unless the respondent looked at these annexures he could not come to know of the allegations made against him so as to be able to meet the allegations in his defence. The non-supply of the copy of the annexures is a serious lapse on the part of the petitioner as by their non-supply he has failed to supply a 'true copy' of the petition to the respondent.

The position with regard to Annexure B1 and B2 may be said to be different as it can be said that these annexures are only evidence of the allegations contained in para 11(iv) of the petition as distinguished from being an integral part of the petition.

In the election petition the petitioner has not reproduced either in whole or even in part the contents of any of the aforesaid annexures. It cannot, therefore, be said that there has been even 'substantial' compliance with the requirements of law. In the facts and circumstances of this case the service of various annexures on the respondent, together with a copy of the main petition, was absolutely imperative and their non-supply defeats the object of supplying 'true copy' of the petition to the respondent. The grievance of the respondent that since a 'true copy' of the petition was not served on him he could not make an effective reply, appears to be justified and well founded. Without knowing the particulars as are contained in the various annexures, copies whereof were not supplied to the respondent, he could not be expected to file a complete written statement or even know all the allegations made in the original petition against him. Annexures, A, C, D, D1, E, F and G in my opinion, are an integral part of the petition containing the particulars of the allegations attributed to the respondent and are a vital part of the petition. They cannot be treated as only 'evidence' in support of the allegations of corrupt practices.

Whereas it is correct as urged by Mr. Gupta, that under section 81(3) of the Act the requirement of law is to supply a true copy of the election petition only, I am afraid, I cannot agree with Mr. Gupta that the word "petition" in S. 81(3) of the Act does not include the 'annexures' to of the petition, where the annexures contain the particulars of the corrupt practice alleged in the petition and form an integral part of it.

The question as to what is the effect of non-supply of copy of an annexure, which is an integral part of the petition, to the respondent alongwith the copy of the petition came up for consideration before the various courts in the country.

In *Sardar Mal v. Smt. Gayatri Devi* (AIR 1964 Rajasthan 223) it was observed that annexures containing the particulars of corrupt practices "are part of the petition itself" and it is mandatory for the petitioner to supply copies to such annexures to the respondent along with the copy of the petition and their non-supply is a fatal defect.

In *Ramashankar v. Jugal Kishore and ors* (29 E.L.R. 233) it was observed:

"The copies of the petition served on the respondents with the omission of the annexures could not be treated to be copies or true copies of the petition within S. 81(3) of the Act. The defect was of a fundamental nature as without the copies of the annexures the respondent could not file written statements meeting the objections raised against the returned candidate in the petition."

Again in *Panna vs. Mukhtiar Singh* (AIR 1972 Punjab 451) where in the petition an allegation had been made about the respondent having paid Rs. 50 to a Riksha puller for carrying voters in his Raksha on the polling day to the polling station, and a photograph showing the particulars of this allegation was annexed to the petition together with another photograph, it was held that the two photos formed a necessary part of the petition and without supplying of the copies of those photos, filed as annexures to the petition, the copy of the petition was incomplete and not a 'true copy'. The learned Judge, therefore, treated the petition as not having been properly presented and dismissed the same under Section 86(1) of the Act in limine. This view also found favour in *Acharya Rasikchandra Devshankar vs. Adani Retubhai Mulshanker* (24 E.L.R. 262).

In view of the above discussion, I am of the opinion, that the facts and circumstance of the present case, annexures A, C, D, D1, E and F and G are such annexures which are integral and vital part of the petition containing allegations and particulars of the various corrupt practices alleged against the respondent, and the non-supply of their copies to the respondent, renders the copy of the petition served on him as not a 'true copy' of the petition. This commission is serious and amounts to a defect in the presentation of election petition.

S. 81(3) of the Act requires that a 'true copy' of the election petition should be served on the Respondent and I find that the said requirement has not been either fully or substantially complied with in the instant case. By the omission to supply copies of all these annexures, which form an integral part of the petition as filed in the court to the respondent, I have no doubt in my mind that the election petition is liable to be dismissed under section 86(1) of the Act. The second objection of the respondent with regard to non-compliance with S. 81(3) of the Act, therefore, prevails and issue No. 1 is decided in favour of the respondent and against the petitioner. It is held that the copy of the petition served on the respondent (minus the annexures) is not a 'true copy' of the petition and the petition is liable to be dismissed for non-compliance of Section 81(3) of the Act under Section 86(1) of the Act which provides that "the High Court shall dismiss an election petition which does not comply with the provisions of Section 81" of the Act.

As a result of the above discussion, since the election petition suffers from a defect of presentation, on account of non-compliance with section 81(3) of the Act, it is hereby dismissed with costs. Counsel fee Rs. 300.

Jammu :

Sd/-

DR. A. S. ANAND, Judge

[No. 82/J&K-HP/1/77]

आवेश

नई दिल्ली, 5 जनवरी, 1978

का०भा० 401-—यतः, निर्वाचन प्रायोग का समाधान हो गया है कि मार्च, 1977 में हुए लोक सभा के लिए साधारण निर्वाचन के लिए 2-श्रीनगर संसदीय निर्वाचन-क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री हाजी मुश्ताक अहमद, जकुरा, गेंदखल, जिला श्रीनगर, जम्मू-कश्मीर राज्य, लोक प्रतिनिधित्व प्रभिनियम, 1951 तथा तदीन बनाए गए नियमों द्वारा प्रपेक्षित अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे हैं,

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक सूचना दिये जाने पर भी, अपनी इस असफलता के लिए कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है, और, निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास हम असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री हाजी मुस्ताफ़ अहमद को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहिता घोषित करता है।

[सं० 76/जम्मू-काश्मीर/को०म०/2/77]

पी० बी० दत्त, अवर सचिव

ORDER

New Delhi, the 5th January, 1978

S.O. 401.—Whereas the Election Commission is satisfied that Haji Mushtaq Ahmad, Zakura, Ganderbal, District Srinagar, Jammu and Kashmir State, a contesting candidate for general election to the Lok Sabha from 2-Srinagar parliamentary constituency, held in March, 1977, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after the due notices has not given any reason or explanation for the failure and the Election Commission is further satisfied that he has no good reason or justification for such failure.

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Haji Mushtaq Ahmad to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. 76/J&K-HP/2/77]

P. B. DATTA, Under Secy.

विधि, न्याय और कम्पनी कार्य मंत्रालय

(कम्पनी कार्य विभाग)

नई दिल्ली, 8 फरवरी, 1978

(चार्टर्ड एकाउन्टेन्ट्स)

का० आ० 402.—केन्द्रीय सरकार, चार्टर्ड एकाउन्टेन्ट्स विनियम, 1964 की अनुसूची ख के पैरा 1 के अनुसरण में भारत सरकार के भूतपूर्व वित्त मंत्रालय, कम्पनी कार्य और बीमा विभाग की अधिसूचना सं० का० आ० 1009 तारीख 25 मार्च, 1965 में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, क्रम संख्या 24 और उससे संबंधित प्रविष्टियों के पश्चात् निम्नलिखित क्रम संख्या और प्रविष्टियाँ अन्तः स्थापित की जाएगी, अर्थात् :—

“25 केवल और कालीकट विश्वविद्यालय की डिग्री पूर्व परीक्षाएं।”

[का० सं० 7/21/74-आई जी सी]

बी० बी० बहुरी, अवर सचिव

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Department of Company Affairs)

New Delhi, the 8th February, 1978

(CHARTERED ACCOUNTANTS)

S.O. 402.—In pursuance of paragraph 1 of schedule B to the Chartered Accountants Regulations, 1964, the Central

Government hereby makes the following further amendment in the notification of the Government of India, in the late Ministry of Finance, Department of Company Affairs and Insurance No. S.O. 1009 dated the 25th March, 1965 namely :—

In the said notification, after serial number 24 and the entry relating thereto, the following serial number and entry shall be inserted, namely :—

“25. Pre-Degree Examinations of Kerala and Calicut Universities”.

[File No. 7/21/74-IGC]

B. B. BAHURRI, Under Secy.

गृह मंत्रालय

(कामिक और प्रशासनिक सुधार विभाग)

नई दिल्ली, 30 जनवरी, 1978

का०आ० 403.—बुद्ध प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप-धारा (6) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, अतुल्य अपरविशेष न्यायाधीश कलकत्ता के न्यायालय में श्री एस०पी० गुप्ता, अधिकारी, सेंट्रल बैंक ऑफ इंडिया, कलकत्ता तथा अन्यो के विरुद्ध नियमित मामला संख्या 7/75-एस०पी०ई०/कलकत्ता में राज्य की ओर से अभियोजन का संचालन करने हेतु श्री जे० एन० घोष अधिकारी, कलकत्ता को विशेष लोक-अभियोजक के रूप में नियुक्ति करती है।

[सं० 225/18/77-ए बी डी/II]

टी०के० गुडमणिपति, अवर सचिव

MINISTRY OF HOME AFFAIRS

(Department of Personnel and Administrative Reforms)

New Delhi, the 30th January, 1978

S.O. 403.—In exercise of the powers conferred by sub-section (6) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri J. N. Ghosh, Advocate, Calcutta, as Special Public Prosecutor to conduct prosecution on behalf of the State in the Court of the 4th Additional Special Judge, Calcutta, in RC No. 7/75-SPE-Calcutta against Shri S. P. Gupta Agent, Central Bank of India, Calcutta and others.

[No. 225/18/77-AVD-II]

T. K. SUBRAMANIAN, Under Secy.

गुडि-पत्र

नई दिल्ली, 4 फरवरी, 1978

का०आ० 404.—भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (ii), तारीख 3 दिसम्बर, 1977 में पृष्ठ 4090 पर प्रकाशित भारत सरकार के गृह मंत्रालय (कामिक और प्रशासनिक सुधार विभाग) की अधिसूचना सं० का०आ० 3671 में दो स्थानों पर आए “हुए निमित्त पेंशन (संशोधन-करण)” के स्थान पर “केन्द्रीय सिविल सेवा (दर्जीकरण, नियुक्ति और अपील)” पड़े।

[संख्या 11012/21/77-स्था०(क)]

आर०सं० गुप्ता, उप सचिव

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 19 नवम्बर, 1977

आय-कर

का०आ० 405.—केन्द्रीय सरकार, आय-कर अधिनियम, 1961 (1961 का 43) की धारा 80छ की उपधारा 2(ख) द्वारा प्रदत्त शक्तियों का

प्रयोग करने हुए, श्री अरुलमिगु सेथुनारायण पेरुमल मन्दिर, वासाप, तालुक श्री विल्लुपुत्तर जिला रामनाथपुरम की उक्त धारा के प्रयोजनों के लिए तमिल नाडु राज्य में सर्वत्र विख्यात लोक पूजा का स्थान अधि-सूचित करती है।

[सं० 2051/फा० सं० 176/105/77-आई० टी० (ए1)]
एम० शास्त्री, अवर सचिव

MINISTRY OF FINANCE
(Department of Revenue)

New Delhi, the 19th November, 1977
(Income-tax)

S.O. 405.—In exercise of the powers conferred by sub-section (2)(b) of Section 80G of the Income-tax Act, 1961 (43 of 1961) the Central Government hereby notifies "Shri Arulmigu Sethunarayana Perumal Temple, Watrap, Sriviliputhur Taluk, Ramanathapuram Distt." to be a place of public worship of renown throughout the State of Tamil Nadu for the purposes of the said section.

[No. 2051/P. No. 176/105/77-IT(AI)]
M. SHASTRI, Under Secy.

आदेश

नई दिल्ली, 27 जनवरी, 1978

स्टाम्प

का० आ० 406.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उस शुल्क को माफ करती है जो कर्नाटक राज्य वित्तीय निगम द्वारा प्रोमिसरी नोटों के रूप में जारी किये जाने वाले दो करोड़ पच्चीस लाख रुपये मूल्य के तदर्थ बन्ध-पत्रों पर, उक्त अधिनियम के अधीन प्रभावी है।

[सं० 1/78-स्टाम्प-फा० सं० 33/2/78-बि०क०]

ORDER

New Delhi, the 27th January, 1978

STAMPS

S.O. 406.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the ad hoc bonds in the nature of promissory notes to the value of two crores and twenty five lakhs of rupees to be issued by the Karnataka State Financial Corporation are chargeable under the said Act.

[No. 1/78-Stamps-F. No. 33/2/78-ST]

आदेश

नई दिल्ली, 1 फरवरी, 1978

स्टाम्प

का. आ. 407.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा उस शुल्क को माफ करती है जो इण्डिया स्ट्रियल क्रेडिट तथा इन्वेस्टमेंट कारपोरेशन आफ इंडिया लिमिटेड, बम्बई द्वारा जारी किये जाने वाले नौ करोड़ नब्बे लाख रुपये मूल्य के ऋणपत्रों पर, उक्त अधिनियम के अधीन प्रभावी है।

[सं० 2/78-स्टाम्प, फा. सं. 33/87/77-वि. क.]

एस. डी. रामस्वामी, अवर सचिव

260 GI/77-4.

ORDER

New Delhi, the 1st February, 1978

STAMPS

S.O. 407.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the debentures to the value of nine crores and ninety lakhs of rupees, to be issued by the Industrial Credit and Investment Corporation of India, Limited, Bombay, are chargeable under the said Act.

[No. 2/78-Stamps-F. No. 33/87/77-ST]

S. D. RAMASWAMY, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 30 जनवरी, 1978

का० आ० 408.—प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा श्री टी०एम० राजशेखर को कावेरी ग्रामीण बैंक, मैसूर के अध्यक्ष के रूप में नियुक्त करती है और 21 जनवरी, 1978 के अपराह्न से प्रारम्भ होकर 30 जून, 1978 को समाप्त होने वाली अवधि को उस अवधि के रूप में निविष्ट करती है जिसमें श्री टी०एम० राजशेखर अध्यक्ष के पद पर कार्य करेंगे।

इस विभाग की दिनांक 31 दिसम्बर, 1977 की समसंख्यक अधिसूचना रद्द समझी जाये।

[संख्या एफ० 3-28/77-आर० आर० बी०]

(Deptt. of Economic Affairs)

(Banking Division)

New Delhi, the 30th January, 1978

S.O. 408.—In exercise of the powers conferred by sub-section (1) of section 11 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby appoints Shri T. M. Rajasekhar, as Chairman of the Cauvery Grammeena Bank, Mysore and specifies the period commencing on the 21st January, 1978 (afternoon) and ending with the 30th June, 1978 as the period for which the said Shri T. M. Rajasekhar shall hold office as such Chairman.

This Department's Notification of even number dated the 31st December, 1977 may be treated as cancelled.

[No. F. 3-28/77-RRB]

का० आ० 409.—प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 11 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा कावेरी ग्रामीण बैंक, मैसूर के अध्यक्ष के रूप में श्री एच० जी० बालगोपाल की नियुक्ति विषयक इस विभाग की दिनांक 30 सितम्बर, 1977 की समसंख्यक अधिसूचना में निम्नलिखित संशोधन किये जाते हैं, अर्थात्:—

उक्त अधिसूचना के अंक, अक्षर और शब्द "31 दिसम्बर, 1977" के स्थान पर अंक, अक्षर और शब्द "21 जनवरी, 1978" प्रतिस्थापित किये जायेंगे।

[संख्या एफ० 4-86/76 ए० सी०]

S.O. 409.—In exercise of the powers conferred by section 11 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby makes the following amendments in this Department's Notification of even no. dated the 30th September, 1977 relating to the appointment of Shri H. G. Balagopal as the Chairman of the Cauvery Grammeena Bank, Mysore, namely:

In the said notification, for the figures letters and words "31st December, 1977" the figures, letters and words "21st January, 1978" shall be substituted.

[No. F. 4-86/76-AC]

नई दिल्ली, 4 फरवरी, 1978

का० आ० 410.—प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा श्री एम०डी० प्रभु को तुंगभद्रा ग्रामीण बैंक, बेल्लारी के अध्यक्ष के रूप में नियुक्त करती है और 23 जनवरी, 1978 (अपराह्न) से प्रारम्भ होकर 30 जून, 1978 को समाप्त होने वाली अवधि को उस अवधि के रूप में निर्दिष्ट करती है जिसमें श्री एम० डी० प्रभु अध्यक्ष के रूप में कार्य करेंगे।

इस विभाग द्वारा जारी की गई दिनांक 19 दिसम्बर, 1977 की अधिसूचना की रद्द समझा जाए।

[संख्या एक० 3-9/77 आर०आर०बी०]

New Delhi, the 4th February, 1978

S.O. 410.—In exercise of the powers conferred by sub-section (1) of section 11 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby appoints Shri M. D. Prabhu as the Chairman of the Tungabhadra Gramin Bank, Bellary and specifies the period commencing on the 23rd January, 1978 (afternoon) and ending with the 30th June, 1978 as the period for which the said Shri M. D. Prabhu shall hold office as such Chairman.

This Department's notification of even number dated the 19th December, 1977 may be treated as cancelled.

[No. F. 3-9/77-RRB]

का० आ० 411.—प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 11 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा श्री बी० ए० प्रभु को तुंगभद्रा ग्रामीण बैंक, बेल्लारी के अध्यक्ष के रूप में नियुक्ति से सम्बन्धित इस विभाग की दिनांक 30 सितम्बर, 1977 की समसंख्यक अधिसूचना में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में अंक, अक्षर और शब्द 31 दिसम्बर, 1977 के स्थान पर अंक, अक्षर और शब्द 23 जनवरी, 1978 प्रतिस्थापित किये जायेंगे।

[संख्या एक० 4-73/75-ए०सी०]

सी० आर० बिश्वास, उप सचिव

S.O. 411.—In exercise of the powers conferred by section 11 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby makes the following amendments in this Department's Notification of even No. dated the 30th September, 1977 relating to the appointment of Shri B. A. Prabhu, as the Chairman of the Tungabhadra Gramin Bank, Bellary, namely:—

In the said notification, for the figures letters and words "31st December, 1977" the figures, letters and words "23rd January, 1978" shall be substituted.

[No. F. 4-73/75-AC]

C. R. BISWAS, Dy. Secy.

नई दिल्ली, 31 जनवरी, 1978

का० आ० 412.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 31 और बैंकिंग विनियमन (सहकारी समिति) नियम, 1966 के नियम 10 के उपबन्ध रत्नागिरी शर्बन कोऑपरेटिव बैंक लिमिटेड, रत्नागिरी पर उस

सीमा तक लागू नहीं होंगे जहाँ तक उनका सम्बन्ध सेवा परीक्षाओं की रिपोर्ट सहित 30 जून, 1977 और 30 जून, 1978 को समाप्त होने वाले वर्षों के लिये इसके तुल्य पत्र, लाभ और हानि खाते का समाचार पत्रों में प्रकाशन से है।

[संख्या एक० 8-2/78-ए०सी०]

लोकेन्द्र नाथ शर्मा, अवर सचिव

New Delhi, the 31st January, 1978

S.O. 412.—In exercise of the powers conferred by the section 53 read with section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 31 of the said Act and Rule 10 of the Banking Regulation (Co-operative Societies) Rules, 1966 shall not apply to the Ratnagiri Urban Cooperative Bank Ltd., Ratnagiri in so far as they relate to the publication of its balance sheet, profit and loss account for the years ended the 30th June, 1977 and 30th June, 1978 together with the auditor's report in a newspaper.

[No. F. 8-2/78-AC]

L. N. SHARMA, Under Secy.

का० आ० 413.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती है कि:—

(क) उक्त अधिनियम की धारा 10 की उपधारा (i) के खण्ड (ग) के उपखण्ड (i) और (ii) के उपबन्ध 31 दिसम्बर, 1978 तक निम्नलिखित बैंकों पर उस सीमा तक लागू नहीं होंगे जहाँ तक उक्त उपबन्ध उनके सम्बन्धित अध्यक्ष और प्रबन्धक निदेशकों को कम्पनी अधिनियम, 1956 (1956 का 1) के अंतर्गत पंजीकृत कम्पनी 'केरल इंडस्ट्रियल एण्ड टेक्निकल कंसल्टेंसी आरगेनाइजेशन लिमिटेड' के निदेशक होने का प्रतिषेध करते हैं, और

(ख) उक्त अधिनियम की धारा 19 की उपधारा (3) के उपबन्ध 31 दिसम्बर, 1978 तक निम्नलिखित बैंकों पर उस सीमा तक लागू नहीं होंगे जहाँ तक उक्त उपबन्ध, उक्त बैंकों द्वारा केरल इंडस्ट्रियल एण्ड कंसल्टेंसी आरगेनाइजेशन लिमिटेड की शेरधारिता का प्रतिषेध करने हैं।

बैंकों का नाम

1. केनारा बैंक
2. इंडियन ओरियन्टीज बैंक
3. सिटीकेट बैंक
4. यूनिन बैंक आफ इण्डिया
5. इंडियन बैंक।

[संख्या 15 (32)-बी०आ० III/77]

S.O. 413.—In exercise of the powers conferred by section 53 of Banking Regulation Act, 1949 (10 of 1949), the Central Government on the recommendation of the Reserve Bank of India, hereby declares that—

(a) The provisions of sub-clauses (i) and (ii) of clause (c) of sub-section (1) of section 10 of the said Act shall not apply till the 31st December, 1978 to the undermentioned banks in so far as the said provisions prohibit their respective Chairman and Managing Directors from being the directors of the Kerala Industrial & Technical Consultancy, Organisation Ltd., being a company registered under the Companies Act, 1956 (1 of 1956); and that

(b) The provisions of sub-section (3) of section 19 of the said Act shall not apply till the 31st December, 1978 to the undermentioned banks in so far as the said provisions prohibit the said banks, from holding shares in the Kerala Industrial and Technical Consultancy Organisation Ltd.

Name of the Banks

1. Canara Bank

2. Indian Overseas Bank
3. Syndicate Bank
4. Union Bank of India
5. Indian Bank.

[No. 15(32)-B.O. III/77]

नई दिल्ली, 1 फरवरी, 1978

का०आ० 414.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषित करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के उपबन्ध ऑरियेंटल बैंक आफ कामर्स लिमिटेड द्वारा रेजुल्टर के रूप में 2.1.1967 से अपने पाम रखे सुप्रभात इंजीनियरिंग कम्पनी लिमिटेड के शेयरों के सम्बन्ध में इस बैंक पर 1 जनवरी, 1979 तक लागू नहीं होंगे।

[संख्या 15 (35)-बी०ओ० III/77]

मे० भा० उमगांवकर, अवर सचिव

New Delhi, the 1st February, 1978

S.O. 414.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendation of the Reserve Bank of India hereby declares that the provisions of sub-section (2) of section 19 of the said Act shall not apply to the Oriental Bank of Commerce Ltd. up to the 1st January, 1979 in respect of the shares of the Suprabhat Engineering Co. Ltd., held by it as pledges since the 2nd January, 1967.

[No. 15(35)-B.O. III/77]

M. B. USGAONKAR, Under Secy.

नई दिल्ली, 2 फरवरी, 1978

का०आ० 415.—कृषि पुनर्वित्त और विकास निगम अधिनियम, 1963 (1963 का 10) की धारा 20 की उपधारा (1) के खण्ड (क) के अनुसरण में केन्द्रीय सरकार, एतद्वारा कृषि पुनर्वित्त और शिवाम निगम द्वारा 10 वर्ष की अवधि में परिपक्व होने वाले 18.75 करोड़ रुपये (अष्टादह करोड़ पचहत्तर लाख रुपये) के 15 से 17 फरवरी, 1978 के दौरान 99 प्रतिशत पर जारी किये जाने वाले बांडों पर व्याज की दर 6(छः) प्रतिशत वार्षिक निधारित करती है। निगम को उक्त राशि से 10 प्रतिशत अधिक तक प्राप्त अंशदान रख लेने का अधिकार होगा।

[संख्या एक० 14/2-78-ए०सी०]

S.O. 415.—In pursuance of clause (a) of sub-section (1) of section 20 of the Agricultural Refinance and Development Corporation Act, 1963 (10 of 1963), the Central Government hereby fixes 6 % (six per cent) per annum as the rate of interest payable on the bonds of Rs. 18.75 crores (Rupees eighteen crores and seventy five lakhs) only to be issued at Rs. 99.00% during the period 15th to 17th February, 1978 with the right to retain subscription received upto 10 % in excess of the said amount with a maturity period of 10 years by the Agricultural Refinance and Development Corporation.

[No. F. 14-2/78-AC]

नई दिल्ली, 2 फरवरी, 1978

का०आ० 416.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबन्ध समस्त नगर कोऑपरेटिव बैंक लिमिटेड, बम्बई पर 1 मार्च, 1977 से 28 फरवरी, 1979 तक की अवधि के लिये लागू नहीं होंगे।

[संख्या एक० 8-3/77-ए०सी०]

वी० एन० बहादुर, उप सचिव

New Delhi, the 2nd February, 1978

S.O. 416.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to the Samasta Nagar Co-operative Bank Ltd., Bombay for the period from 1st March, 1977 to 28th February, 1979.

[No. F. 8-3/77-AC]

V. N. BAHADUR, Dy. Secy.

नई दिल्ली, 31 जनवरी, 1978

का०आ० 417.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 की उपधारा (1) के खण्ड (घ) के अनुसरण में केन्द्रीय सरकार भारतीय रिजर्व बैंक के परामर्श से निम्नलिखित व्यक्तियों की भारत सरकार के वित्त मंत्रालय (बैंकिंग विभाग) की 1 मई, 1973 की अधिसूचना संख्या एक० 9-2/15-72-बी०ओ०-1(II) के अंतर्गत नामित निदेशकों के स्थान पर 1 फरवरी, 1978 से भारतीय स्टेट बैंक के केन्द्रीय मंडल में निदेशक नामित करती है।—

1. श्री वी० एम० भिडे,
भा० प्र० से० (सेवा निवृत्त)
7, सुयोजना समिति,
कोरोगांव पार्क,
पूणे-411001. (महाराष्ट्र)
2. श्री आर० डी० दीवान,
मार्फत मेसर्स मादुभाई जमीयत राम एंड सदान,
एडवोकेट एण्ड सालीसीटर्स एण्ड नोटेरी,
वेंटिल चेम्बर्स,
दलाल स्ट्रीट, फोर्ट,
बम्बई-400023. (महाराष्ट्र)
3. डा० बी० ए० पं पाणदीकर,
निदेशक,
नीति अनुसंधान केन्द्र,
27, पश्चिमी मार्ग,
बसंत विहार, नई दिल्ली-110057
4. श्री बी० सत्य मुनि,
कार्यकारी निदेशक,
श्रीराम फाइवर्स लिमिटेड,
औद्योगिक क्षेत्र, मनाली,
मद्रास-600068. (तमिळनाडु)
5. श्री बी० जी० खर्गिस,
पी० 12, हीज खस,
नई दिल्ली-110016.

[सं० एक० 8/3/77-बी० ओ० I(1)]

New Delhi, the 31st January, 1978

S.O. 417.—In pursuance of clause (d) of sub-section (1) of section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominates the following persons to be Directors of the Central Board of the State Bank of India, with effect from 1st February, 1978 in the place of the Directors nominated under the notification of the Government of India in the Ministry of Finance

Department of Banking) No. F. 9-2/15/72-BO-I-(II) dated 1st May, 1973 :—

1. Shri V. M. Bhide,
I. A. S. (Retd.),
7, Suyojana Society,
Koregaon Park,
Poona-411001,
(Maharashtra).
2. Shri R. D. Diwan,
C/o M/s. Matubhai Jamietram & Madan,
Advocates, Solicitors & Notary,
Lentin Chambers,
Dalal Street,
Fort, Bombay-400023,
(Maharashtra).
3. Dr. V. A. Pai Panandiker,
Director,
Centre for Policy Research,
27, Paschimi Marg,
Vasant Vihar,
New Delhi-110057.
4. Shri V. Satyamurti,
Executive Director,
Shriram Fibres Ltd.,
Industrial Area, Manali,
Madras-600068,
(Tamil Nadu),
5. Shri B. G. Berghese,
P 12, Hauz Khas,
New Delhi-110016.

[No. F. 8/3/77-B.O. 1(1)]

क्र० आ० 418.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 की उपधारा (1) के खण्ड (ग) के अनुसरण में केन्द्रीय सरकार भारतीय रिजर्व बैंक के परामर्श से निम्नलिखित व्यक्तियों को भारत सरकार के वित्त मंत्रालय (बैंकिंग विभाग) की अधिसूचनाओं संख्या एफ 9-2(15)/72 बी ओ 1(III) दिनांक 1 मई, 1973, एफ 9-2(15)/72 बी ओ 1(खण्ड) (भाग II), दिनांक 1 नवम्बर, 1973, एफ 8/3/74 बी ओ 1 दिनांक 7 मई, 1974, एफ 8/5/74 बी ओ 1, दिनांक 6 नवम्बर, 1974, 11 नवम्बर, 1974 18 जनवरी, 1975 और 26 अप्रैल, 1975 के अंतर्गत नामित सदस्यों के स्थान पर 1 फरवरी, 1978 से भारतीय स्टेट बैंक के अहमदाबाद, भोपाल, बम्बई, कलकत्ता, हैदराबाद, कानपुर, मद्रास, नई दिल्ली और पटना स्थानीय मंडलों में क्रमशः सदस्य नामित करती है :—

अहमदाबाद स्थानीय मंडल

1. प्रोफेसर एम० पी० भट्ट,
प्रोफेसर तथा अध्यक्ष,
अर्थशास्त्र विभाग,
यूनीवर्सिटी स्कूल आफ सोशल साइंसेज,
गुजरात विश्वविद्यालय,
नवरंगपुर, अहमदाबाद-380009,
(गुजरात)
2. श्री रामजी भाई आर० चौधरी,
प्रमुख, ग्राम सेवा समाज,
बंकल,
तालुका मंगरोल,
जिला सूरत (गुजरात)
3. श्री निमन लाल अमृतलाल वेसाई,
मार्फत अमृत लाल वेसाई एण्ड कम्पनी,

रेलवे स्टेशन रोड,
भुज-कच्छ-270001 (गुजरात)

4. श्री जयसितराम के० मोदी
डेवर रोड,
राजकोट-360001 (गुजरात)
5. श्री अम्भूभाई डी पटेल,
अध्यक्ष, दी सावर कांठा डिस्ट्रिक्ट
सेंट्रल कोऑपरेटिव बैंक लिमिटेड,
हिम्मत नगर, (गुजरात)
6. प्रोफेसर सेम्युल पाल,
निदेशक,
इंडियन इंस्टीट्यूट आफ मैनेजमेंट,
वस्त्रपुर,
अहमदाबाद-380015
(गुजरात)
भोपाल स्थानीय मंडल

1. श्री बी० बी० शर्मा,
बरफखाना,
खालियर-2, (मध्य प्रदेश)
2. श्री पी० एस० कालानी,
कमल विला,
11, लुकीगंज रोड,
इन्दौर (मध्य प्रदेश)
3. श्री विट्ठल राव म्हस्के,
5 पंचशील नगर,
रायपुर-492001 (मध्य प्रदेश)
4. डा० ए० सी० मिनोचा,
प्रोफेसर तथा अध्यक्ष,
स्कूल आफ सोशल साइंसेज,
(क्षेत्रीय आयोजन और आर्थिक वृद्धि),
भोपाल विश्वविद्यालय,
57 मालवीय नगर,
भोपाल (मध्य प्रदेश)
5. श्री नरेंद्र प्रताप सिंह,
पंडरिया बंगला,
नार्मल स्कूल के पास,
विलासपुर (मध्य प्रदेश)
6. श्री आर० पी० नीरोन्हा,
ई 1/42, अरेरा कालोनी,
भोपाल (मध्य प्रदेश)
बम्बई स्थानीय मंडल
1. श्री जे० आर० गगराट,
एडवोकेट, सालीसिटर एण्ड नोटरी,
अली बेम्बर्स,
एन० मास्टर रोड,
बम्बई-400023
2. श्री बी० एम० गोण्टी
146-टिलकवाड़ी,
बेलगांव-590006
(कर्नाटक)

3. श्री एफ० ए०एस० जसवान्तबाला,
प्रबन्ध निदेशक,
दी इन्डियन स्टेण्डर्ड मेटल कम्पनी लिमिटेड,
आई० एस० एम० एस्टेट, अनन्त गणपत पट्टार लेन,
(भायखेला मुहस डिपो के सामने)
बम्बई-400027. (महाराष्ट्र)

4. डा० दास रामस्वामी,
प्रबन्ध निदेशक,
मेसर्स त्रिट्रो फार्मा प्राइवेट्स (प्राइवेट) लिमिटेड,
89 गवर्मेन्ट इन्डस्ट्रियल एस्टेट,
कॉन्ट्रिबिली (पश्चिम) बम्बई-400067.
(माहाराष्ट्र)

5. श्री श्रीकान्त जी० रूपारेल,
उद्योग भवन,
बालचन्द्र हीरा मार्ग,
बल्लाई एस्टेट,
बम्बई (महाराष्ट्र)

6. डा० (कु०) एस० के० वर्गास,
राष्ट्रीय बैंक प्रबन्ध संस्थान,
85 नापी न सी रोड,
बम्बई - 400006.
(महाराष्ट्र)

कलकत्ता स्थानीय मंडल

1. श्री एच० पी० बरुआ,
मार्फत बरुआ हंस एण्ड एसोसिएट्स लिमिटेड,
क्लब रोड,
जोरहाट (असम)

2. श्री दुर्गामा धन बेहुरा
सेवा निवृत्त कृषि निदेशक,
थोरिया मा ही,
मंगलबाग,
कटक (उड़ीसा)

3. प्रोफेसर श्री पाद दास,
22, कालिज स्ट्रीट,
पी० ओ० कृष्ण नगर - 741101,
जिला नदिया,
(पश्चिम बंगाल)

4. श्री ब्रिजल मिश्र,
लेप्रो केमिकल इंडस्ट्रीज प्राइवेट लिमिटेड,
मिश्र साही,
पुरी - 752001.
(उड़ीसा)

5. रेवरेंड कारबेंसन संगमा,
ए० बी० मिशन कम्पाउण्ड,
टुरा, गारो पहाड़िया,
(मेघालय)

6. डा० एस० एन० सेन,
18 सी लेक्यू रोड,
दूसरी मंजिल,
कलकत्ता - 700029.
(पश्चिम बंगाल)

हैदराबाद स्थानीय मंडल

1. डा० एस भगवन्तम्,
अध्यक्ष,
श्री सत्य इलेक्ट्रोनिक्स (प्राइवेट) लिमिटेड,
151 -1, 'प्रार' ब्लाक,
राजाजी नगर,
बंगलूर 560010.
(कर्नाटक)

2. श्री बी० एन० मूर्ति,
अध्यक्ष,
जवाहर लाल नेहरू सामाजिक विज्ञान अनुसंधान संस्थान,
2-2-18/42, दुर्गा बाई वेशमुख कालोनी,
हैदराबाद - 500768.
(आंध्र प्रदेश)

3. श्री ए० हनुमन्त राव,
यावव स्ट्रीट,
ग्रोल्ड गुन्दूर,
गुन्दूर (आंध्र प्रदेश)

4. श्री ए० के० विश्वनाथ रेड्डी,
अध्यक्ष,
दी मुलकानूर कोआपरेटिव रूरल बैंक लिमिटेड,
डाकखाना मुल्कानूर,
तालुका हजुराबाद, जिला करीम नगर,
(आंध्र प्रदेश)

5. श्री एम० वदराजन्,
प्रबन्ध निदेशक,
आई डी एल केमिकल्स-लिमिटेड,
हैदराबाद-500018
(आंध्र प्रदेश)
कानपुर स्थानीय मंडल

1. श्री अमर सिंह,
मेसर्स ग्रीन फील्ड्स
गोलघर,
गोरखपुर-273001
(उत्तर प्रदेश)

2. श्री मोहम्मद स्वालेह शंसारी,
निदेशक, उत्तर प्रदेश हेण्डलूम,
और पावरलूम फाइनेंस एण्ड डिवलपमेंट-कारपोरेशन,
सी०-19/115-117, फीट मेन रोड,
कमला नगर के सामने,
थाराणसी (उत्तर प्रदेश)

3. प्रोफेसर एम० एस० खान, हैड,
डिपार्टमेंट आफ इकोनामिक,
अलीगढ़ मुस्लिम विश्वविद्यालय,
अलीगढ़ (यू० पी०)

4. श्री राम मुकुट सिंह,
एडवोकेट,
653, माऊथ सिविल लाइन,
मृगफर नगर,
उत्तर प्रदेश

5. श्री आर० पी० टमटा,
“हरि निवास”
अलमोड़ा,
(उत्तर प्रदेश)
6. श्री ए० बी० टण्डन,
मेमर्स टैंडन एण्ड कम्पनी
चार्टर्ड अकाउन्टेन्ट्स,
लक्ष्मी बिल्डिंग,
16/103, महात्मा गांधी रोड,
कानपुर-1 (उत्तर प्रदेश)
मद्रास स्थानीय कार्यालय
1. श्री एम० सोमशेखर भट,
प्लास्ट्यूबेक्स कार्पोरेशन,
लाला लाजपत राय मार्ग,
कुजी बेट्टे उडुपी-2.
(कर्नाटक)
2. श्री ई० गोविन्दराज,
81, सीतम्मा काकोती (एकमठेशन),
तेनामपेट, मद्रास-600018
(तमिलनाडु)
3. श्री के० एस० माम्मेन माप्पिल्लै,
अध्यक्ष एवं प्रबन्ध निदेशक,
मद्रास रबड़ फेसट्री लिमिटेड,
धून बिल्डिंग, 175/1 अन्ना रोड,
मद्रास-600002
(तमिलनाडु)
4. श्री सी० वामन,
भा० प्र० से० (सेवा निवृत्त)
मूल्लामंगलम्,
कोडियार तिवेन्द्रम-695003
(केरल)
5. श्री आई० जार्जनुम आबिदीन,
डीन एण्ड डीन,
चार्टर्ड अकाउन्टेन्ट्स,
तीमरी संजिल,
312 थम्बू वेट्टो स्ट्रीट,
मद्रास-600001
(तमिलनाडु)
नई दिल्ली स्थानीय मंडल
1. श्री रामचन्द्र बेनीशाल,
7 टी 20 जयाहर नगर,
जयपुर (राजस्थान)
2. डा० बी० एम० भाटिया,
प्रिंसिपल,
हिन्दू कालेज,
दिल्ली विश्वविद्यालय,
दिल्ली केम्पस,
दिल्ली-110007
3. श्री नूरुद्दीन दर,
काजी बाग,
अनन्तनाग, काश्मीर
(जम्मू और काश्मीर)
4. श्री जगमोहन सिंह कोछड़,
71 सुंदर नगर,
नई दिल्ली-110003
5. श्री मोतीलाल कदम,
सदस्य,
आगरा औद्योगिक परामर्श समिति,
27/50 काजी पाड़ा,
आगरा-282001
(उत्तर प्रदेश)
6. डा० के० एस० गिम्,
प्रोफेसर एण्ड हेड,
पंजाब स्कूल ऑफ इकानामिक्स,
गुरु नानक देव विश्वविद्यालय,
अमृतसर (पंजाब)
पटना स्थानीय मंडल
1. श्री रंग लाल चौधरी,
एडवोकेट,
सरकारी वकील,
धनबाद (बिहार)
2. डा० डी० एन० लाल,
यूनिवर्सिटी प्रोफेसर एण्ड हेड
आफ़ डी डिपार्टमेंट ऑफ़ स्टैटिस्टिक्स,
पटना विश्वविद्यालय
नया डाक बंगला रोड,
पटना-1 (बिहार)
3. श्री रामानन्द प्रसाध,
मार्फ़त मेसर्स आर० एन० प्रसाद एण्ड कम्पनी,
चार्टर्ड अकाउन्टेन्ट्स,
फ़ेजर रोड,
पटना-1 (बिहार)
4. श्री के० एस० बी० रामन,
400, केनाल रोड,
पटना-800001
(बिहार)
5. श्री राजेन्द्र शर्मा,
नवन पुरा, लेहटा,
जिला गया (बिहार)
6. श्रीमती मेरो टोपानो,
ग्राम धुमसाटोसी,
डाकखाना ईस्ट चर्च रोड,
रौंकी (बिहार)

[सं० एक० 8/3/77-बी० ओ०-1(2)]

बलदेव सिंह, संयुक्त सचिव

S.O. 418.—In pursuance of clause (c) of sub-section (1) of section 21 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby nominates the following persons to be members of the Ahmedabad, Bhopal, Bombay, Calcutta, Hyderabad, Kanpur, Madras, New Delhi and Patna Local Boards of the State Bank of India, respectively with effect from 1st February, 1978 in the place of the members nominated under the notifications of the Government of India in the Ministry of Finance (Department of Banking) Nos. F. 9-2(15)/72-BO.I(III) dated 1st May, 1973. F. 9-2

(15)/72-BO.I (Vol. I) (Part-II) dated 1st November, 1973, F. No. 8/3/74-BO.I dated 7th May, 1974, F. 8/5/74-BO.I dated 6th November, 1974, 11th November, 1974, 18th January, 1975 and 26th April, 1975 :—

AHMEDABAD LOCAL BOARD

1. Prof. M. P. Bhatt,
Professor & Head,
Department of Economics,
University School of Social Sciences,
Gujarat University,
Navrangpura, Ahmedabad-380009,
(Gujarat).
2. Shri Ramjibhai R. Chaudhari,
Pramukh Gram Seva Samaj,
Vankal,
Taluka Mangrol,
Distt. Surat (Gujarat).
3. Shri Chimanlal Amritlal Desai,
C/o Amritlal Desai & Company,
Railway Station Road,
Bhuj-Kutch-370001,
(Gujarat).
4. Shri Jamiyatram K. Mody,
Dhebar Road,
Rajkot-360001,
(Gujarat).
5. Shri Ambubhai D. Patel,
Chairman,
The Sabar Kantha District,
Central Cooperative Bank Ltd.,
Himmatnagar, (Gujarat).
6. Professor Samuel Paul,
Director,
Indian Institute of Management,
Vastrapur, Ahmedabad-380015
(Gujarat).

BHOPAL LOCAL BOARD

1. Shri B. B. Bhargava,
Barafkhana,
Gwalior-2 (Madhya Pradesh).
2. Shri P. S. Kalani,
Kamal Villa,
11, Tukoganj Road, Indore,
(Madhya Pradesh).
3. Shri Vithal Rao Mhaskey
5, Panchsheel Nagar,
Raipur-492001,
(Madhya Pradesh).
4. Dr. A. C. Minocha,
Professor & Head,
School of Social Science,
(Department of Regional Planning
and Economic Growth,
Bhopal University,
57, Malviyanagar,
Bhopal (Madhya Pradesh).
5. Shri Narendra Pratap Singh,
Pandaria Bungalow,
Near Normal School,
Bilaspur,
(Madhya Pradesh).
6. Shri R. P. Noronha,
E. 1/42, Arera Colony,
Bhopal,
(Madhya Pradesh).

BOMBAY LOCAL BOARD

1. Shri J. R. Gagrut,
Advocate, Solicitor and Notary,
Alli Chambers,

N. Master Road,
Bombay-400023,
(Maharashtra).

2. Shri B. M. Gogte,
146, Tilakwadi,
Belgaum-590006,
(Karnataka).
3. Shri F. A. A. Jasdanwalla,
Managing Director,
The Indian Standard Metal Co. Ltd.,
I.S.M. Estate, Anant Ganpat Pawar Lane,
(Opp. Byculla Goods Depot),
Bombay-400027,
(Maharashtra).
4. Dr. Dasu Ramaswami,
Managing Director,
M/s. Vitro-Pharma Products (P) Ltd.,
89, Govt. Industrial Estate, Kandivlis (West),
Bombay-400067,
(Maharashtra).
5. Shri Shrikant G. Reparel,
Udyog Bhavan,
Walchand Hirachand Marg,
Ballard Estate,
Bombay,
(Maharashtra).
6. Dr. (Miss) S. K. Verghese,
National Institute of Bank Management,
85, Nepean Sea Road,
Bombay-400006,
(Maharashtra).

CALCUTTA LOCAL BOARD

1. Shri H. P. Barooah,
C/o Barooahs & Associates Ltd.,
Club Road,
Jorhat, (Assam).
2. Shri Durgamadhab Behura,
Retired Director of Agriculture,
Thoria Sahi,
Manglabag,
Cuttrack, (Orissa).
3. Professor Sreepada Das,
22, College Street,
P. O. Krishnagar-741101,
Distt. Nadia,
(West Bengal).
4. Shri Bimal Mishra,
Leo Chemical Industries Private Ltd.,
Mishra Sahi,
Puri-752001,
(Orissa).
5. Rev. Karbenson Sangma,
A. B. Mission Compound,
Tura, Garo Hills,
(Meghalaya).
6. Dr. S. N. Sen,
18C, Lakeview Road,
Calcutta-700029,
(West Bengal).

HYDERABAD LOCAL BOARD

1. Dr. S. Bhagavantam,
Chairman,
Sri Sathya Electronics (P) Ltd.,
151-I 'R' Block,
Rajajinagar,
Bangalore-560010,
(Karnataka).
2. Shri V. N. Murti,
Chairman,
Jawahar Lal Nehru Institute of Social
Science Research,
2-2-18/42, Durgabai Deshmukh Colony.

Hyderabad-500768,
(Andhra Pradesh).

3. Shri A. Hanumantha Rao,
Yadava Street,
Old Guntur,
Guntur,
(Andhra Pradesh).
4. Shri A. K. Vishwanath Reddy,
President,
The Mulkanoor Cooperative Rural Bank Ltd.,
P. O. Mulkanoor, Taluk Hazurabad,
Dist. Karimnagar,
Andhra Pradesh).
5. Shri M. Varadarajan,
Managing Director,
IDL Chemicals Ltd.,
Hyderabad-500018,
(Andhra Pradesh).

KANPUR LOCAL BOARD

1. Shri Amar Singh,
M/s. Green Fields,
Golghar,
Gorakhpur-273001,
(Uttar Pradesh).
2. Shri Mohd. Swaleh Ansari,
Director,
U. P. Handloom and Powerloom Finance and Development Corporation,
C-19/115-117, Faatman Road,
Opp. Kamla Nagar,
Varanasi (Uttar Pradesh).
3. Prof. M. S. Khan,
Head, Department of Economics,
Aligarh Muslim University,
Aligarh (Uttar Pradesh).
4. Shri Ram Mukut Singh,
Advocate,
653, South Civil Line,
Muzaffarnagar,
(Uttar Pradesh).
5. Shri R. P. Tamta,
"Hari Niwas",
Almora, (Uttar Pradesh).
6. Shri A. B. Tandon,
M/s. Tandan & Co.,
Chartered Accountants,
Lakshmi Building,
16/103, Mahatma Gandhi Road,
Kanpur-1,
(Uttar Pradesh).

MADRAS LOCAL BOARD

1. Shri M. Somashekara Bhat,
Plastubex Corporation,
Lala Lajapath Rai Marg,
Kunjibettu, Udipi-2,
(Karnataka).
2. Shri E. Govindaraj,
81, Seethamma Colony. (Extension),
Teynampet, Madras-600018,
(Tamil Nadu).
3. Shri K. M. Mammen Mappillai,
Chairman & Managing Director,
Madras Rubber Factory Ltd.,
Dhun Buildings,
175/1, Anna Road,
Madras-600002,
(Tamil Nadu).
4. Shri C. Thomas,
I. A. S. (Retd.),
Mullamangalam,
Kaudiar, Trivandrum-695003,
(Kerala).

5. Shri I. Zainul Abideen,
Dean and Dean,
Chartered Accountants,
3rd Floor,
312, Thambu Chetty Street,
Madras-600001,
(Tamil Nadu).

NEW DELHI LOCAL BOARD

1. Shri Ram Chandra Beniwal,
7 T 20, Jawahar Nagar,
Jaipur (Rajasthan).
2. Dr. B. M. Bhatia,
Principal,
Hindu College,
University of Delhi,
Delhi Campus, Delhi-110007.
3. Shri Noor-ud-din Dar,
Qazi Bagh,
Anantnag, Kashmir
(Jammu & Kashmir).
4. Shri Jagmohan Singh Kochhar,
71, Sunder Nagar,
New Delhi-110003.
5. Shri Moti Lal Kadam,
Member, Agra Industrial Advisory Committee,
27/50, Kazipara, Agra-28001,
(Uttar Pradesh).
6. Dr. K. S. Gill,
Professor and Head,
Punjab School of Economic,
Guru Nanak Dev University,
Amritsar (Punjab).

PATNA LOCAL BOARD

1. Shri Ranglal Choudhary,
Advocate,
Govt. Pleader,
Dhanbad (Bihar).
2. Dr. D. N. Lal,
University Professor and
Head of the Department of Statistics,
Patna University,
New Dak Bungalow Road,
Patna-1 (Bihar).
3. Shri Rama Nand Prasad,
C/o M/s. R. N. Prasad & Co.,
Chartered Accountants,
Fraser Road,
Patna-1 (Bihar).
4. Shri K. S. V. Raman,
400, Canal Road,
Patna-800001,
(Bihar).
5. Shri Rajindra Sharma,
P. O. Nandanpura,
Tehta,
District Gaya,
(Bihar).
6. Mrs. Mary Topno,
Village Dhumsatoli,
P. O. East Church Road,
Ranchi,
(Bihar)

सीमा शुल्क तथा केन्द्रीय उत्पाद शुल्क समाहर्तालय (केन्द्रीय उत्पाद शुल्क विंग) कोचीन-11

कोचीन, 30 मई, 1977

केन्द्रीय उत्पाद शुल्क

का० आ० 419.—केन्द्रीय उत्पाद शुल्क नियमावली 1944 के नियम 5 के अन्तर्गत प्रवृत्त शक्तियों का प्रयोग करते हुए तथा इस समाहर्तालय द्वारा अधीनस्थ अधिकारियों को प्रयायोजित शक्तियों के सम्बन्ध में पहले जारी की गई सभी अधिसूचनाओं का अधिक्रमण करते हुए, मैं इस अधिसूचना द्वारा इसके साथ संलग्न सारणी के कालम 3 में निर्दिष्ट पद के केन्द्रीय उत्पाद शुल्क के अधिकारियों को, उनके अपने अपने अधिकार क्षेत्र के अन्तर्गत सारणी के स्तम्भ 2 में हर एक अधिकारी के नाम के सामने बताए गए नियमों के उपबन्धों के अन्तर्गत तथा सारणी के स्तम्भ 4 में उल्लिखित सीमाओं के अधीन, यदि कोई हों, समाहर्ता की शक्तियां को प्रयोग करने का प्राधिकार प्रदान करता हूँ।

सारणी

क्रम सं०	के०उ०शु० नियम सं०	अधिकारी, जो नीचे बताए गए पद से निचली श्रेणी का न हो	प्रतिबन्ध और सीमाएं, यदि कोई हों
1	2	3	4
1. 3		अधीक्षक	—
2. 9		अधीक्षक	—
3. 9(1ए)		सहायक समाहर्ता	—
4. 9बी(3)		अधीक्षक	—
5. (क) 12 (उपबन्ध)		सहायक समाहर्ता/अधीक्षक, विशेष नियमित संबंधी दावे	—
(ख) उपबन्ध (iii) तथा (ii) नोट अर्थात् नियम 12 के साथ दी गयी टिप्पणी।		कोचीन अधीक्षक	—
(ग) नियम 12 के उप नियम 5		सहायक समाहर्ता/अधीक्षक, खास नियमित संबंधी दावे, कोचीन।	—
6. (क) नियम 12 ए के उपनियम (3), (6) और (7)		सहायक समाहर्ता	—
(ख) उपबन्ध (2) से नोट तथा पैरा 3(ख) तथा 4 के परिशिष्ट से भारत सरकार।		सहायक समाहर्ता	—
(ग) वित्त मंत्रालय (राजस्व विभाग) के दिनांक 21-6-58 की यथा संशोधित अधिसूचना सं० 62/58, की परिशिष्ट के नोट के परन्तुक (2) और पैरा 3(बी) और 4 (अर्थात् नियम 12(क) की टिप्पणी)		सहायक समाहर्ता	—
(घ) पैरा 5 के परिशिष्ट [भारत सरकार, वित्त मंत्रालय (राजस्व विभाग)] की यथा संशोधित दिनांक 21-6-58 की अधिसूचना सं० 62/58 के०उ०शु० की परिशिष्ट के पैरा 5 के प्रथम परन्तुक (अर्थात् नियम 12(क) के साथ दी गयी टिप्पणी)।		सहायक समाहर्ता	यह शक्ति निर्यात की तिथि से तीन महीने समाप्त हो जाने के बाद शुल्क से छूट के दावों को प्रस्तुत करने में 15 दिन तक की देर को दरमजूर करने तक सीमित है।
7. (क) 13		अधीक्षक	यह शक्ति बंधपत्र स्वीकार करने तक सीमित है।
(ख) 13		सहायक समाहर्ता/अधीक्षक, विशेष नियमित संबंधी दावे, कोचीन।	यह शक्ति केवल ए०आर० 4 एस०/ए०आर० 4 ए०एस० की द्वितीय/तृतीय प्रति को प्रस्तुत करने और निर्यात करने से संबंधित समय सीमा में ढील देने और निर्यात किये जाने से संबंधित प्रमाणों को स्वीकार करने तक सीमित है।
8. 14		सहायक समाहर्ता/अधीक्षक विशेष नियमित संबंधी दावे, कोचीन	सभी शक्तियां जिनमें ए०आर० 4 एस०/ए०आर० 4 ए०एस० की द्वितीय/तृतीय प्रति को प्रस्तुत करने से संबंधित समय सीमा में ढील देने और निर्यात किया जाना भी शामिल है।
9. 14 क उपबन्ध (सी)		सहायक समाहर्ता	किसी भी ऐसे मामले में जहां अन्तर्ग्रंथ शुल्क 250 रुपये से अधिक न हो (दो सौ पचास रुपये केवल)
10. (क) 27(1)		निरीक्षक	—
(ख) 27(4)		सहायक समाहर्ता	किसी भी ऐसे मामले में जिसमें अन्तर्ग्रंथ शुल्क की राशि 250 रुपये से अधिक न हो (दो सौ पचास रुपये केवल)

1	2	3	4
11. 38		अधीक्षक	---
12. 43		प्राधिकारी, मूल लाइसेंस जारी करने के लिए प्राधिकृत	---
13. 44		"	---
14. 46		"	---
15. (क) 47(1) (उपबन्ध)		अधीक्षक	---
(ख) 47(3)		प्राधिकारी का मूल लाइसेंस जारी करने के लिए प्राधिकृत।	---
(ग) 47(4)		अधीक्षक	---
16. 48		प्राधिकारी, मूल लाइसेंस जारी करने के लिए प्राधिकृत।	---
17. 52		प्राधिकारी, मूल लाइसेंस जारी करने के लिए प्राधिकृत	---
18. 52(ए)(1) नियम 173 जी (2) के साथ पठित		सहायक समाहर्ता	स्वनिर्धारण पर निकासी प्रक्रिया के अन्तर्गत कार्य कर रहे यूनियनों सविधिक गेट पास के स्थान पर दूसरा फार्म निर्धारित करने की शक्ति (के०उ० शु० सीरीज सं० 65ए तथा 65ए)
(क) 53 नियम 173 जी (4) के साथ पठित		उपसमाहर्ता	---
(ख) 53(डी) (उपबन्ध)		अधीक्षक	---
19. 56क(2)		सहायक समाहर्ता	---
20. 56क(4)		सहायक समाहर्ता	---
21. 65(3) तथा (4)		सहायक समाहर्ता	---
22. 71(3)		अधीक्षक	---
23. 75		सहायक समाहर्ता	---
24. 92ए(1)		अधीक्षक	---
25. 92ए(3)		सहायक समाहर्ता	उस निर्माता के संबंध में जो उस अवधि के दौरान ऐसी कार्यविधि से लाभ नहीं उठा पाता, जिसके लिए अनुमति प्रदान की गई है।
26. (क) 92ए(4)		अधीक्षक	ए०एस०पी० फार्म में तबीकरण के लिए दिए गए आवेदन पत्र स्वीकार करना।
(ख) 92ए(4)		अधीक्षक	ऐसे विलम्ब को दरगुजर करने के लिए जिसकी अवधि 15 दिन से अधिक न हो।
		सहायक समाहर्ता	15 दिन से अधिक की अवधि को दरगुजर करने के लिए।
27. 92 ख व्याख्या (सी)		सहायक समाहर्ता	---
28. 92 बी (3) (उपबन्ध)		अधीक्षक	---
29. 92 सी (2)		अधीक्षक	2 दिन तक के विलम्ब के दरगुजर करने के लिये
		सहायक समाहर्ता	2 दिन से अधिक के विलम्ब को दरगुजर करने के लिए।
30. 92 ई (खंड III)		सहायक समाहर्ता	---
31. 92 एक		उप-समाहर्ता	---
32. 93 (बी)		सहायक समाहर्ता	तथ्य अनुमोदन के बारे में समाहर्ता की रिपोर्ट किया जाना।
33. 96 आई(1)		अधीक्षक	---
34. 96 आई(2)		सहायक समाहर्ता	---
35. 96 आई(3)		सहायक समाहर्ता	---
36. (क) 96 आई(4)		अधीक्षक	फार्म ए०एस०पी० में तबीकरण के लिये आवेदन स्वीकार करना।

1	2	3	4
(ख) 96 बाई (4)			नवीकरण के लिये आवेदन पत्र प्रस्तुत करने में असफल होने के कारण उक्त कार्यविधि के अन्तर्गत काम करने से रोकने की अवधि निश्चित करना या/और दरगुजर करना। ऐसे विलम्ब को दरगुजर करना जिस की अवधि 15 दिन से अधिक न हो। "
37. (क) 96 के० (2)	सहायक समाहर्ता		तिमाही/वार्षिक रूप से धनराशि जमा करने या ए० आर० 6 फार्म में शुल्क योग्य माल की निकासी के लिये आवेदन पत्र प्रस्तुत करने में असफल रहने की दरगुजर करना। तिमाही आवेदन पत्र के मामले जिसकी अवधि ऐसा विलम्ब दरगुजर करना 2 दिन से अधिक न हो तथा वार्षिक आवेदन पत्र दाखिल करने और वार्षिक रूप से की जाने वाली जमा में 10 दिन से अधिक की देरी न हो या तिमाही के रूप से।
(ख) 96 के० (2)	सहायक समाहर्ता		ऊपर बतायी गयी सीमाओं से अधिक देरी को माफ करने के लिये।
38. 96 एम०एम०	सहायक समाहर्ता		---
39. 96 एम०एम०एम०एम०	उप-समाहर्ता		---
40. 96 बी (1)	अधीक्षक		---
41. 96 बी (2)	सहायक समाहर्ता		---
42. 96 बी (3)	सहायक समाहर्ता		---
43. 96 एक्स	उप-समाहर्ता		---
44. 96 बाई (1)	अधीक्षक		विशेष कार्यविधि के अन्तर्गत काम करने की अनुमति प्रदान करने के संबंध में प्रथम ए०एस०पी० आवेदन पत्र स्वीकार करना। निर्धारित समय से कम समय में प्रथम ए०एस०पी० आवेदन पत्र स्वीकार करना। वह अवधि निर्धारित करना जिसके लिए ऐसे अभि-निर्माता को, जो उस अवधि के विशेष कार्यविधि के अन्तर्गत काम करने से रोका जा सकता है, जिसके दौरान वह विशेष कार्यविधि के अन्तर्गत लाभ उठाने में असफल रहे जिस अवधि के संबंध में उसे उक्त कार्य प्रणाली के आधीन कार्य करने की अनुमति दी गई थी।
45. 96 बाई (2)	अधीक्षक		काम ए०एस०पी० में नवीकरण के लिये आवेदन पत्र स्वीकार करना। ऐसे निर्माता को जो नवीकरण के लिये आवेदन पत्र प्रस्तुत करने में असफल रहा विशेष कार्यविधि के अन्तर्गत काम करने से रोकने की अवधि निश्चित करना या/और दरगुजर करना। 15 दिन तक के विलम्ब दरगुजर करने के लिए। 15 दिन से अधिक के विलम्ब को दरगुजर करने के लिए।
46. 96 बाई (3)	सहायक समाहर्ता		मासिक रूप से धन राशि जमा करने या ए०आर० फार्म में शुल्क योग्य माल की निकासी के लिए आवेदन पत्र प्रस्तुत न कर पाने की असफलता को दरगुजर करना। ऐसे विलम्ब को दरगुजर करना जो 5 दिन से अधिक न हो। 15 दिन से अधिक की देरी को माफ करना।
47. (क) 96 बाई (4)	अधीक्षक		
(ख) 96 बाई (4)			
	अधीक्षक		
	सहायक समाहर्ता		
48. 96 जेड (2)			
	अधीक्षक		
	सहायक समाहर्ता		

1	2	3	4
49. 96 जेड जेड जेड जेड		उप-समाहर्ता	---
50. 96 जेड ए (1)		अधीक्षक	---
51. 96 जेड ए (2)		अधीक्षक	---
52. 96 जेड ए (3)		सहायक समाहर्ता	---
53. (क) 96 जेड ए (4)		अधीक्षक	फार्म ए० एस० पी० में नवीकरण आवेदन-पत्र स्वीकार करता।
53. (ख) 96 जेड ए (4)		अधीक्षक	ऐसे निर्माता को, जो नवीकरण के लिए आवेदन-पत्र प्रस्तुत करने में असफल रहता है, विशेष कार्यविधि के अन्तर्गत काम करने से रोकने की अवधि निर्धारित करना या/और दरगुजर करना।
		सहायक समाहर्ता	ऐसे विलम्ब को दरगुजर करने के लिए, जिसकी अवधि 15 दिन से अधिक न हो।
54. 96 जेड डी (2)		अधीक्षक	15 दिन से अधिक की बेरी को माफ करने के लिए।
		सहायक समाहर्ता	मासिक रूप से घन राशि जमा करने या ए० आर० 10 परिपत्र में मुख्य माल को निकासी के लिए आवेदन-पत्र प्रस्तुत करने में असफलता को दरगुजर करना।
		अधीक्षक	5 दिन तक के विलम्ब को दरगुजर करने के लिए।
		सहायक समाहर्ता	5 दिन से ज्यादा के विलम्ब को दरगुजर करने के लिए।
55. 96 जेड०जी०		उपसमाहर्ता	---
56. 96 जेड०एच० (1)		अधीक्षक	---
57. 96 जेड०एच० (2)		सहायक समाहर्ता	---
58. (क) 96 जेड०एच० (4)		अधीक्षक	---
58. (ख) 96 जेड०एच० (4)			विशेष कार्यविधि के अन्तर्गत ऐसे निर्माता के संबंध को जो नवीकरण के लिए आवेदन-पत्र नहीं दे पाया है, कार्य करने से रोकने की अवधि निर्धारित करना और या इस अवधि को दरगुजर करना।
		अधीक्षक	ऐसे विलम्ब को दरगुजर करने के लिए, जिसकी अवधि 5 दिन से अधिक न हो।
		सहायक समाहर्ता	यस दिन की अवधि से अधिक की बेरी को दरगुजर करने के लिए।
59. 96 जेड०माई० (4)		सहायक समाहर्ता	---
60. 96 ए०एम०		उप समाहर्ता	---
61. 96 जेड०ओ० (1)		अधीक्षक	---
62. 96 जेड०ओ० (2)		अधीक्षक	---
63. 96 जेड०ओ० (3)		सहायक समाहर्ता	---
64. (क) 96 जेड०ओ० (4)		अधीक्षक	फार्म ए०एस०पी० में नवीकरण के लिए आवेदन-पत्र स्वीकार करता।
(ख) 96 जेड०ओ० (4)			ऐसे निर्माता के संबंध में जिसने नवीकरण के लिए आवेदन-पत्र नहीं दिया है, 'विशेष कार्यविधि' के अन्तर्गत निवारण-अवधि निर्धारित करना या उस अवधि को दरगुजर करना।
		अधीक्षक	15 दिन तक की बेरी को दरगुजर करने के लिए।
		सहायक समाहर्ता	15 दिन से ज्यादा के विलम्ब को दरगुजर करने के लिए।
65. 96 जेड०फ्यू० (2)			फार्म ए०आर० 11 के अन्तर्गत शुल्क माल को हटाने के लिए आवेदन-पत्र देने में या मासिक जमा कराने में असफल रहने की चूक को दरगुजर करना।
		अधीक्षक	5 दिन तक के विलम्ब को दरगुजर करने के लिए।
66. 96 जेड०यू०		उप समाहर्ता	---
67. 97		सहायक समाहर्ता	---
68. 100		सहायक समाहर्ता	---

1	2	3	4
69. 140		अधीक्षक	केवल निजी भाण्डागारों के संबंध में प्रयोग की जाती है।
70. 145 (सूचीय परन्तुक का खण्ड ए)		सहायक समाहर्ता	फूल संशोधित तम्बाकू के संबंध में सामान्य रूप से प्रवान की जाने वाली 2 वर्ष की अवधि के अतिरिक्त एक वर्ष का समय और प्रदान करने की शक्ति।
71. 147		सहायक समाहर्ता	जहाँ पर प्रत्येक अलग मामले में अन्तर्गस्त शुल्क की राशि रु० 250/- से अधिक न हो (दो सौ पचास रुपये केवल)।
72. 153		निरीक्षक	---
73. 154		अधीक्षक	---
74. 155		अधीक्षक	सार्वजनिक बन्धपत्रित भांडागारपाल के द्वारा निष्पादित बन्धपत्रों के संबंध में यह शक्ति प्रयोग में नहीं लाई जायगी।
75. 165(2)		अधीक्षक	---
76. 173 जी० (1) परन्तुक (iii)		सहायक समाहर्ता	---
77. 173 जी० (1) (1ए०)		सहायक समाहर्ता	---
78. 173 जी० (3) परन्तुक (i)		सहायक समाहर्ता	ऐसे कर-निर्धारितियों के बारे में जो अपने माल का निर्यात करते हैं और जिन्हें विवरणियाएँ (माल हटाने से) क्रमशः संबंधित दस्तावेजों में (ए०आर० 4ए० और गेट पारों) के अन्तर्गत हटाए गए माल के बारे में शुल्क की अदायगी के सत्यापन की आवश्यकता होती है। इस संबंध में केवल तदर्थ आधार पर छूट की अनुमति दी जा सकती है वह भी केवल उन शुल्क निर्धारितियों को जो अपने माल का निर्यात करते हैं।
79. 173 एल०		सहायक समाहर्ता	---
80. 173 एम०		सहायक समाहर्ता	---
81. 173 बी० (2) और 185 (1)		अधीक्षक	फार्म में उचित अधिकारी की आवेदन-पत्र के साथ उन पैकेजों या बक्सों को प्रस्तुत किए जाने के बारे में जिनमें निर्यात किया जाने वाला माल है, कथित नियमों में निर्धारित 24 घंटे की सीमा में ढील देने के लिए।
82. 180		अधीक्षक	---
83. 185(1)		सहायक समाहर्ता	---
84. 189		सहायक समाहर्ता	---
85. 189 ए०		अधीक्षक, विशेष निर्यात वाले, कोचीन।	---
86. 189 बी०		"	---
87. 191 ए०		सहायक समाहर्ता	निर्माण में प्रयुक्त फार्मूलों को अनुमोदित करने तथा शुल्क योग्य माल का निर्माण करने वाले कारखाने से माल प्राप्त करने वाले कारखाने तक ले जाने के लिए निर्धारित समय सीमा को बढ़ाने की शक्तियों के अलावा सभी शक्तियाँ।
88. 191 बी० नियम 191 बी (5) को छोड़कर इसके अन्तर्गत टिप्पणी		सहायक समाहर्ता	निर्माण में प्रयुक्त फार्मूलों का अनुमोदन करने के अलावा सभी शक्तियाँ।
89. नियम 191 बी० की टिप्पणी		अधीक्षक	भारत सरकार, वित्त मंत्रालय (राजस्व विभाग) की दिनांक 9-5-59 की यथासंशोधित अधिसूचना सं० 53/54 के पैरा 4 में निर्दिष्ट समाहर्ता की शक्तियाँ जहाँ प्रत्येक मामले में अन्तर्गस्त शुल्क निम्नलिखित से ज्यादा न हो।

1	2	3	4
90. 191 बी० (5)	.	उप समाहर्ता सहायक समाहर्ता अधीक्षक	10,000 रुपए 1,000 रुपए 250 रुपए
91. 192	.	अधीक्षक या इससे उच्च पद का अधिकारी	पर्यवेक्षी स्टाफ पर आने वाले व्यय को निश्चित करने से संबंधित शक्ति के अलावा सभी शक्तियाँ।
92. 193	.	सहायक समाहर्ता	—
93. 197	.	निरीक्षक	वहीं में होगा या उसके पास केन्द्रीय उत्पादन शुल्क के किसी ऐसे अधिकारी द्वारा जारी पहचान पत्र हो, जिसका पद सहायक समाहर्ता के पद से कम न हो।
94. 199	.	निरीक्षक	"
95. 200	.	निरीक्षक	"
96. 206(3)	.	वे अधिकारी जो कें० उ० शु० तथा तमक अधिनियम, 1944 और कें० उ० शु० नियमावली 1944 के अधीन आने वाले किसी अपराध का अधिनिर्णयन के लिए सक्षम हों।	—
97. 210ए०	.	सहायक समाहर्ता	जहाँ पर माल का मूल्य 5000 रु० से ज्यादा न हो। स्वीकार की जा सकने वाली संयोजन फीस (कम्पोजीशन फीस) की राशि रु० 750 से ज्यादा न हो।
	.	अधीक्षक	जहाँ पर माल का मूल्य 1,000 रुपए से ज्यादा न हो। स्वीकार की जा सकने वाली संयोजन फीस (कम्पोजीशन फीस) 250 रुपये से ज्यादा न हो।
98. 212	.	अधीक्षक	जब्त किए हुए 9.3 बिंदु तक तम्बाकू को नष्ट करने की शक्ति। प्रत्येक ऐसे मामले में जब तम्बाकू की बिगड़ी हुई दशा के कारण कोई भी बोरी लगाने वाला न तो इसे शुल्क भ्रष्टा करके खरीदने को तैयार हो न फिर से भाड़ागार में रखने के लिए।
99. 212ए०	.	सहायक समाहर्ता	इन शक्तियों का प्रयोग केवल उसी स्थिति में किया जाना है जब सहायक समाहर्ता द्वारा अधिनिर्णीत माल को जब्त किया जाना हो।
	.	अधीक्षक	इन शक्तियों का प्रयोग केवल उसी अधिनिर्णीत माल के बारे में किया जाना है जो अधीक्षक द्वारा जब्त की जाती है।
100. 223 ए०	.	सहायक समाहर्ता	—
101. 224(1)	.	अधीक्षक	—
102. 230	.	सहायक समाहर्ता	—
103. शुल्क की प्रतिभ्रष्टाचारी इत्यादि	.	अधीक्षक	प्रतिभ्रष्टाचारी की किस्म वित्तीय सीमाएं (यदि कोई हैं तो)
			(1) अस्वीकृत आवेदन पत्रों की लाइसेंस शुल्क फीस की प्रतिभ्रष्टाचारी।
			(2) अप्रयुक्त/क्षतिग्रस्त कें० उ० शु० शुल्क लेवियों और अप्रयुक्त कें० उ० शु० राजस्व टिकटों की प्रतिभ्रष्टाचारी।

1	2	3	4
			(3) ज्यादा भुदा की गई लाइसेंस फीस शून्य वापस दिया जाता।

टिप्पणी :—जहां तक अधीक्षक, विशेष निर्यात वाले, कोचीन को प्रत्यायोजित शक्तियों का संबंध है, उसको केवल कोचीन बन्दरगाह से निर्यात होने वाले माल के मामलों से संबंधित शक्तियों का ही प्रयोग करना चाहिए।

[प्रसिद्धता सं० 5/77]

सि० के० गोपालकृष्णन, समाहर्ता

Collectorate of Customs and Central Excise (Central Excise Wing), Cochin-11

Cochin, the 30th May, 1977

CENTRAL EXCISE

S.O. 419.—In exercise of the powers conferred by rule 5 of the Central Excise Rules, 1944, and in supersession of all earlier notifications delegating powers to subordinate officers issued from this Collectorate, I hereby empower the Central Excise Officers specified in column 3 of the table hereto appended to exercise within their respective jurisdictions the powers of Collector under the provisions of the rules shown against each officer in column 2 of the table subject to the restrictions and limitations, if any, set out in column 4 thereof.

TABLE

Sl. No.	Central Excise Rule No.	Officers not below the rank of	Restrictions and limitations, if any
1	2	3	4
1.	3	Superintendent	—
2.	9	Superintendent	—
3.	9(1-A)	Assistant Collector	—
4.	9-B(3)	Superintendent	—
5.	(a) 12 (Proviso)	Assistant Collector/Superintendent, Special Export Claims, Cochin.	—
	(b) Proviso (iii) and (vii) to Note 1 below Rule 12.	Superintendent	—
	(c) Proviso (v) to Note 1 below Rule 12.	Assistant Collector/Superintendent, Special Export Claims, Cochin.	—
6.	(a) Sub Rule (3), (6) & (7) of Rule 12-A.	Assistant Collector	
	(b) Proviso (2) to Note and paras 3(b) and 4 of Appendix to Govt. of India MF. (DR) Notification No. 62/58-CE dt. 21-6-58 as amended (i.e. Note to Rule 12-A).	Assistant Collector	
	(c) First proviso to para 5 of Appendix to Govt. of India, MF (DR) Nfn. No. 62/58-CE dated 21-6-58 as amended (i.e. Note to Rule 12-A).	Assistant Collector	Power is limited to condone delays in presentation of rebate claims upto a period of fifteen days after the expiry of 3 months from the date of export.
7.	(a) 13	Superintendent	Power is limited to acceptance of bonds.
	(b) 13	Assistant Collector/Superintendent Spl. Export Claims Cochin.	Power is limited to admission of proof of export and to relax the time limit for exportation and presentation of duplicate/triplicate AR 4s/ AR4 As.

1	2	3	4
8. 14	Assistant Collector/Superintendent Export Claims, Cochin		All powers including the relaxation of time limit for exportation and presentation of duplicate/triplicate AR 4s/AR4 As.
9. 14-A (Proviso) (c)	Assistant Collector		In any individual case where the duty involved does not exceed Rs. 250/- (Rupees Two hundred and fifty only).
10. (a) 27(1)	Inspector		
(b) 27(4)	Assistant Collector		In any individual case where the duty involved does not exceed Rs. 250/- (Rupees Two hundred and fifty only).
11. 38	Superintendent		—
12. 43	Authority empowered to issue original licence.		—
13. 44	Authority empowered to issue original licence.		—
14. 46	Authority empowered to issue original licence.		—
15. (a) 47(1) (Proviso)	Superintendent		—
(b) 47(3)	Authority empowered to issue the original licence.		—
(c) 47(4)	Superintendent		—
16. 48	Authority empowered to issue the original licence.		—
17. 52	Authority empowered to issue the original licence		—
18. 52-A(1) read with rule 173-G(2)	Assistant Collector		To prescribe alternate form in lieu of the statutory gate pass (Central Excise Series No. 65-A and 65-AA) in respect of units working under Self Removal procedure.
(a) 53 read with rule 173-G(4)	Deputy Collector		—
(b) 53(d) (Proviso)	Superintendent		—
19. 56-A(2)	Assistant Collector		—
20. 56-A(4)	Assistant Collector		—
21. 65(3) & (4)	Assistant Collector		—
22. 71(3)	Superintendent		—
23. 75	Assistant Collector		—
24. 92-A(1)	Superintendent		—
25. 92-A(3)	Assistant Collector		In respect of a manufacturer who fails to avail of such procedure during the period for which the permission has been granted.
26. (a) 92-A(4)	Superintendent		To accept renewal application in form A.S.P.
(b) 92-A(4)	Superintendent		For condoning delays not exceeding 15 days.
	Assistant Collector		For condoning delays exceeding 15 days.
27. 92-B (Explanation) (c)	Assistant Collector		—
28. 92-B(3) (Proviso)	Superintendent		—
29. 92-C(2)	Superintendent		For condoning delays not exceeding 2 days.
	Assistant Collector		For condoning delays exceeding 2 days.
30. 92 E.	Assistant Collector		—
31. 92-F	Deputy Collector		—
32. 93(b)	Assistant Collector		The fact of approval to be reported to Collector.
33. 96I(1)	Superintendent		—
34. 96I(2)	Assistant Collector		—
35. 96 I(3)	Assistant Collector		—
36. (a) 76 I(4)	Superintendent		To accept renewal application in form A.S.P.
(b) 96 I(4)			To condone and/or to determine the period of preclusion from working under the special procedure for failure to make an application for renewal.

1	2	3	4
		Superintendent Assistant Collector	For condoning delays not exceeding 15 days. For condoning delays exceeding 15 days.
37.	(a) 96 K(2)		To condone failure to make application for removal of excisable goods in form AR 6 or to make quarterly/annual deposits.
		Superintendent	For condoning delays not exceeding 2 days in the case of quarterly applications and quarterly deposits and delays not exceeding 10 days in the case of annual applications and annual deposits.
	(b) 96 K(2)	Assistant Collector	For condoning delays exceeding the above limits.
38.	96 MM	Assistant Collector	—
39.	96 MMMM	Deputy Collector	—
40.	96 V(1)	Superintendent	—
41.	96 V(2)	Assistant Collector	—
42.	96 V(3)	Assistant Collector	—
43.	96 X	Deputy Collector	—
44.	96 Y(1)	Superintendent	To accept first A.S.P. for grant of permission to work under the special procedure.
45.	96 Y(2)	Superintendent	To accept first A.S.P. for a period less than the prescribed period.
46.	96 Y(3)	Assistant Collector	To determine the period for which a manufacturer may be precluded from working under the special procedure for failure to avail of such procedure during the period for which permission has been granted to him.
47.	(a) 96 Y(4) (b) 96 Y(4)	Superintendent	To accept renewal application in form A.S.P.
		Superintendent Assistant Collector	To condone and/or to determine the period of preclusion from working under the special procedure in respect of the manufacturer who fails to make an application for renewal. for condoning delays not exceeding 15 days. For condoning delays exceeding 15 days.
48.	96 Z(2)		To condone failure to make application for removal of excisable goods in form A.R.9 or to make monthly deposit. —for condoning delays not exceeding 5 days. For condoning delays exceeding 5 days.
		Superintendent Assistant Collector	—
49.	96 ZZZZ	Deputy Collector	—
50.	96 ZA(1)	Superintendent	—
51.	96 ZA(2)	Superintendent	—
52.	96 ZA(3)	Assistant Collector	—
53.	(a) 96 ZA(4) (b) 96 ZA(4)	Superintendent	To accept renewal application in form A.S.P.
		Superintendent Assistant Collector	To condone and/or to determine to period of preclusion from working under the special procedure in respect of a manufacturer who fails to make an application for renewal. —for condoning delays not exceeding 15 days. For condoning delays exceeding 15 days.
54.	96 ZD(2)		To condone failure to make application for removal of excisable goods in form A.R. 10 or to make monthly deposits. —for condoning delays not exceeding 5 days. For condoning delays exceeding 5 days.
		Superintendent Assistant Collector	—
55.	96 ZG	Deputy Collector	—
56.	96 ZH(1)	Superintendent	—
57.	96 ZH(2)	Assistant Collector	—
58.	(a) 96 ZH(4) (b) 96 ZH(4)	Superintendent	To condone and/or to determine the period of preclusion from working under the special

1	2	3	4
			procedure in respect of a manufacturer who fails to make an application for renewal— —for condoning delays not exceeding 10 days. For condoning delays exceeding 10 days.
59.	96 ZI(4)	Superintendent	—
60.	96 AM	Assistant Collector	—
61.	96 ZO(1)	Deputy Collector	—
62.	96 ZO(2)	Superintendent	—
63.	96 ZO(3)	Superintendent	—
64.	(a) 96 ZO(4)	Assistant Collector	—
	(b) 96 ZO(4)	Superintendent	To accent renewal application in form A.S.P. To condone and/or to determine the period of preclusion from working under the special procedure in respect of a manufacturer who failed to make an application for renewal— —for condoning delays not exceeding 15 days. For condoning delays exceeding 15 days. To condone failure to make application for removal of excisable goods in form AR. 11 or to make monthly deposits. —for condoning delays not exceeding 5 days. For condoning delays exceeding 5 days.
65.	96 ZQ(2)	Superintendent	—
		Assistant Collector	—
66.	96 ZU	Superintendent	—
67.	97	Assistant Collector	—
68.	100	Deputy Collector	—
69.	140	Assistant Collector	—
70.	145 (Clause (a) of the third proviso)	Superintendent	To be exercised in respect of private warehouses only. In the case of flue cured tobacco, to grant extension of time for one year in addition to the normal period of two years.
71.	147	Assistant Collector	Where the duty involved in each individual case does not exceed Rs. 250/- (Rupees two hundred and fifty only).
72.	153	Inspector	—
73.	154	Superintendent	—
74.	155	Superintendent	The power shall not be exercised in the case of bonds executed by the keeper of a public bonded warehouse.
75.	165(2)	Superintendent	—
76.	173 G(1) Proviso (iii)	Assistant Collector	—
77.	173 G(1) (1-A)	Assistant Collector	—
78.	173 G(3) Proviso (i)	Assistant Collector	Relaxation may be allowed only on ad-hoc basis to assessee who export their goods and need verification of payment of duty from the returns on the respective removal documents (AR4A & Gate Passes).
79.	173 L	Assistant Collector	—
80.	173 M	Assistant Collector	—
81.	173 O(2) & 185 (1)	Superintendent	For relaxation of time limit of 24 hrs. laid down in the said rules for presentation of packages or cases containing goods to be exported together with an application in the proper form to the proper officer.
82.	180	Superintendent	—
83.	185(1)	Assistant Collector	—
84.	189	Assistant Collector	—
85.	189 A	Superintendent, Special Export Claims, Cochin	—
86.	189 B	Superintendent, Special Export Claims, Cochin	—
87.	191 A	Assistant Collector	All powers except the power in regard to the approval of formula of manufacture and the power to extend the time limit prescribed for conveying the excisable goods from the manufacturing factory to the receiving factory.
88.	191 B & note the reunder except rule 191 B(5)	Assistant Collector	All powers except the power in regard to the approval of formula of manufacture.

1	2	3	4								
89.	Note to rule 191 B	Superintendent	Powers of Collector in para 4 of Govt. of India, Ministry of Finance (Department of Revenue) Notification No. 53/59 dated 9-5-59 as amended.								
90.	191 B(5)		Where the duty involved in each case does not exceed :								
		Deputy Collector	Rs. 10,000/-								
		Assistant Collector	Rs. 1,000/-								
		Superintendent	Rs. 250/-								
91.	192	of and above the rank of Superintendent	All powers except in regard to fixing of the cost of supervisory staff.								
92.	193	Assistant Collector	—								
93.	197	Inspector	Shall be in uniform or in possession of an identity card issued by an officer not inferior in rank to an Asst. Collector of Central Excise.								
94.	199	Inspector	Do.								
95.	200	Inspector	Do.								
96.	206(3)	Officers competent to adjudicate the offence under the Central Excise and Salt Act 1944 and the Central Excise Rules, 1944.	—								
97.	210 A	Assistant Collector	Where the value of the goods does not exceed Rs. 5,000/-.								
			The amount of composition fee that can be accepted does not exceed Rs. 750/-.								
		Superintendent	Where the value of the goods does not exceed Rs. 1,000/- the amount of composition fee that can be accepted does not exceed Rs. 250/-.								
98.	212	Superintendent	Destruction of confiscated tobacco not exceeding 9.3 Quintals. in each case which due to its deteriorated condition fails to attract bidders to purchase it either on payment of duty or for rewarehousing.								
99.	212 A	Assistant Collector	Powers to be exercised only in respect of the goods adjudged to be confiscated by Assistant collector.								
		Superintendent	Powers to be exercised only in respect of goods adjudged to be confiscated by Superintendent.								
100.	223 A	Assistant Collector	—								
101.	224(1)	Superintendent	—								
102.	230	Assistant Collector	—								
103.	Refund of duty etc.		<table><tr><th>Nature of refund</th><th>Monetary limits, if any</th></tr><tr><td>(1) Reund of licence fee on rejected applications.</td><td>Nil</td></tr><tr><td>(2) Refund on unused or damaged Central Excise labels and unused Central Excise Revenue Stamps.</td><td>Nil</td></tr><tr><td>(3) Refund of excess licence fee paid.</td><td>Nil</td></tr></table>	Nature of refund	Monetary limits, if any	(1) Reund of licence fee on rejected applications.	Nil	(2) Refund on unused or damaged Central Excise labels and unused Central Excise Revenue Stamps.	Nil	(3) Refund of excess licence fee paid.	Nil
Nature of refund	Monetary limits, if any										
(1) Reund of licence fee on rejected applications.	Nil										
(2) Refund on unused or damaged Central Excise labels and unused Central Excise Revenue Stamps.	Nil										
(3) Refund of excess licence fee paid.	Nil										
		Superintendent									

N.B. :—In so far as the delegation of powers made to the Superintendent, Special Export Claims, Cochin is concerned, he should exercise only powers relating to cases covering export of goods through Cochin Port.

[Notification No. 5/77]

C. K. GOPALAKRISHNAN, Collector

कोचीन, 8 सितम्बर, 1977

केन्द्रीय उत्पाद-शुल्क

का०आ० 420.—केन्द्रीय उत्पाद-शुल्क नियम, 1944 के नियम 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं कलकत्ता की अधिसूचना सं० 5/77 तारीख 30-5-1977 में निम्नलिखित संशोधन करता हूँ, अर्थात्:—

उक्त अधिसूचना से उपाखण्ड सारणी में क्रम सं० 5 के सामने '(क) 12 (परंतुक)' का लोप किया जाएगा और (ख) तथा (ग) स्थित क्रम सं० को क्रमशः (क) और (ख) के रूप में पुनः प्रकृत किया जाएगा।

[अधिसूचना सं० 7/77]

बे० एस० स्वामिनाथन, कलकत्ता

Cochin, the 8th September, 1977

CENTRAL EXCISE

S.O. 420.—In exercise of the powers conferred on me under rule 5 of the Central Excise Rules, 1944, I hereby make the following amendment in this collectorate's, Notification No. 5/77 dated 30-5-1977 namely :

In the table appended to the side Notification, the entries made under serial number 5(a) against rule 12 (Proviso) shall be deleted and serials at '(b)' and '(c)' shall be re-numbered as (a) and (b) respectively,

[Notification No. 7/77]

T. S. SWAMINATHAN, Collector.

केन्द्रीय उत्पाद शुल्क तथा सीमा शुल्क समाहृतलय पश्चिम बंगाल,
कलकत्ता

कलकत्ता, 7 नवम्बर, 1977

केन्द्रीय उत्पाद शुल्क

का० आ० 421.—केन्द्रीय उत्पाद शुल्क नियमावली, 1944 के नियम 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैं इसके द्वारा इस समाहृतलय के उपसमाहर्ता, केन्द्रीय उत्पाद की निर्माण सूच के अनुमोदन के सम्बन्ध में केन्द्रीय उत्पाद शुल्क नियमावली, 1944 के नियम 191-ए और 191-बी के अधीन समाहर्ता की कार्यशक्ति के प्रयोग के लिए प्राधिकृत करता हूँ।

(2) इस समाहृतलय के पूर्व की अधिसूचना सं० 3/1965 दिनांक 2-6-65 को इसके द्वारा रद्द किया जाता है।

[अधिसूचना सं० 8/1977/सी० सं० IV (16) 14-सी० ६०/प०ब०/76/

83934-4042]

ए० के० बीमिक, समाहर्ता

Office of the Collector of Central Excise and Customs,
West Bengal, Calcutta

Calcutta, the 7th November, 1977

CENTRAL EXCISE

S.O. 421.—In exercise of the powers conferred on me under Rule 5 of the Central Excise Rules, 1944, I hereby empower the Deputy Collectors of Central Excise in this Collectorate to exercise the powers of the Collector under Rules 191-A and 191-B of Central Excise Rules, 1944, in regard to approval of manufacturing formula.

2. This Collectorate earlier notification No. 3/1965 dated 2-6-1965 is hereby rescinded.

[Notification No. 8/1977/C. No. IV(16)14-CE/

WB/76/83934-4042]

A. K. BHOWMIK, Collector

सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क समाहृतलय अहमदाबाद

अहमदाबाद, 16 दिसम्बर, 1977

सीमाशुल्क

का०आ० 422.—सीमाशुल्क अधिनियम, 1962, (1962 का 52) की धारा 9 के साथ पठित भारत सरकार, वित्त मंत्रालय (राजस्व और बीमा विभाग), नई दिल्ली द्वारा जारी की गई अधिसूचना सं० 79-सीमा-शुल्क, फाइल संख्या 473/2/75-सीमाशुल्क VII दिनांक 18-7-75 द्वारा मुझे प्रदत्त शक्तियों का प्रयोग करते हुए मैं के० श्रीनिवासन, समाहर्ता सीमाशुल्क एवं केन्द्रीय उत्पाद शुल्क, अहमदाबाद एतद्वारा गोम्रा, वमन और वीव संघ क्षेत्र के वमन संघ क्षेत्र का भाण्डागार (स्थान बेमर हाउसिंग स्टेशन) घोषित करता हूँ।

[सं० 5/77-सी० शु० मि० सं० VIII/40-18/सी० शु० /76]

के० श्रीनिवासन, समाहर्ता

Customs & Central Excise Collectorate, Ahmedabad

Ahmedabad, the 16th December, 1977

CUSTOMS

S.O. 422.—In exercise of the powers conferred on me under section 9 of the Customs Act, 1962 (52 of 1962), read with the Notification No. 79-Cus., F. No. 473/2/75-Cus. VII dated 18-7-1975 issued by the Government of India, Ministry of Finance (Department of Revenue and Insurance), New Delhi, I, K. Srinivasan, Collector of Customs and Central Excise, Ahmedabad hereby declare the Union territory of Daman in the Union Territory of Goa, Daman and Diu to be a warehousing station.

[No. 5/77-Cus., F. No. VIII/40-18/Cus/76]

K. SRINIVASAN, Collector

बाणिज्य मंत्रालय

नई दिल्ली, 19 जनवरी, 1978

(हलायची नियंत्रण)

का०आ० 423.—केन्द्रीय सरकार, हलायची नियम, 1965 के नियम 5 के साथ पठित हलायची अधिनियम, 1965 (1965 का 42) की धारा 4 की उप-धारा (3) के खंड (ग) के अनुसरण में अधिसूचित करती है कि श्री जगजीत सिंह आनन्द की जो कि राज्य सभा के सदस्य हैं, राज्य सभा द्वारा उक्त अधिनियम की धारा 4 की उपधारा (1) के अधीन स्थापित हलायची बोर्ड के सदस्य के रूप में निर्वाचित किया गया है और वह विनिर्दिष्ट करता है कि श्री जगजीत सिंह आनन्द, इस अधिसूचना के सकारात्री राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए या तब तक के लिए जब तक वे राज्य सभा के सदस्य बने रहते हैं, जो भी पहले हो, उक्त बोर्ड के सदस्य के रूप में पद धारण किए रहेंगे।

[फा०सं० 32/31/74-प्वाट (बी)]

एस० महादेव अय्यर, उप-निवेशक

MINISTRY OF COMMERCE

New Delhi, the 19th January, 1978

(Cardamom Control)

S.O. 423.—In pursuance of clause (c) of sub-section (3) of section 4 of the Cardamom Act, 1965 (42 of 1965) read with rule 5 of the Cardamom Rules, 1965, the Central Government hereby notifies that Shri Jagjit Singh Anand, Member, Council of States has been elected by the Council of States to be a member of the Cardamom Board, established under sub-section (1) of the said section 4 and specifies that Shri Jagjit Singh Anand shall hold Office as a member of the said Board with effect from the date of

publication of this notification in the Official Gazette for a period of three years or until he ceases to be a member of the Council of States, which ever is earlier.

[File No. 32/31/74-Plant(B)]
S. MAHADEVA, Dy. Director

संयुक्त मुख्य नियंत्रक, आयात-निर्मात का कार्यालय, कलकत्ता

आदेश

कलकत्ता, 15 अक्टूबर, 1977

का० आ० 424.—सर्वश्री नियोगी लेबोरेटरीज, 205-नेताजी सुभाष रोड, बेहाला, कलकत्ता-34 को 8 हाइड्रोक्सीक्वोनिनलाइन का आयात करने के लिए 409441 रुपए के कुल मूल्य के लिए एक आयात लाइसेंस संख्या-पी/एस/1778409/सी/एक्स एक्स/58/सी, दिनांक 3-2-76 प्रदान किया गया था। पार्टी ने उक्त लाइसेंस को सोमा शुल्क एवं मुद्रा विनियम नियंत्रण प्रतियों का अनुलिपि प्रति के लिए इस आधार पर आवेदन किया है कि उनसे लाइसेंस उपयोग में लाने से पूर्व और किसी भी सोमा-शुल्क प्राधिकारी के पास पंजीकृत कराए बिना हो खो गया/अस्थानस्थ हो गया है। पूर्वोक्त के समर्थन में, पार्टी ने महानगरीय मजिस्ट्रेट के समक्ष विधिवत शपथ लेते हुए इस संबंध में एक शपथ-पत्र दाखिल किया है कि लाइसेंस बिल्कुल भी उपयोग में नहीं लाया गया है और न ही इसको रद्द, धरोहर, हस्तान्तरण अथवा उनके द्वारा फर्म को और से किसी अन्य पार्टी को किसी भी प्रयोजन/विचार जो कुछ भी हो के लिए, या फर्म की ओर से इसको सौंपा नहीं गया है। आवेदक ने मूल लाइसेंस, जिसके बदले में उन्होंने अनुलिपि प्रति जारी करने के लिए आवेदन किया है, रद्द करने के लिए प्रार्थना की है और यह वचन दिया है कि यदि मूल लाइसेंस बाद में मिल गया तो वह उसे लाइसेंस प्राधिकारी को वापस कर देगा। मैं सन्तुष्ट हूँ कि आयात लाइसेंस संख्या पी/एस/1778409/सी/एक्स एक्स/58/विनांक 3-2-76 की मूल सीमा शुल्क एवं मुद्रा विनियम नियंत्रण प्रतियाँ खो गई हैं और आवेदक को सीमा शुल्क एवं मुद्रा विनियम नियंत्रण प्रति की अनुलिपि प्रति जारी की जाए मूल लाइसेंस (सीमा शुल्क एवं मुद्रा विनियम नियंत्रण प्रतियाँ दोनों) एतद् द्वारा रद्द किया जाता है।

[संख्या ए०मू०/00265/14/ए०एम०-75/3/419]

(Office of the Jt. Chief Controller of Imports and Exports,
Calcutta)

ORDER

Calcutta, the 15th October, 1977

S.O. 424.—M/s. Neogy Laboratories 205, Netaji Subhas Road, Behala, Calcutta 34 were granted import licence No. P/S/1778409/C/XX/58/C dated 3-2-1976 for import of 8-Hydroxyquinoline for a total amount of Rs. 409,441/- the firm have applied for duplicate customs and exchange Control copies of the above licence on the ground that the original licence has been lost/misplaced by them before utilisation and without having been registered with any customs authorities.

In support of the above, the firm have produced an affidavit duly sworn in before a metropolitan Magistrate to the effect that the licence has not been utilised at all and the same has not been cancelled, pledged, transferred or handed over by them or on their behalf to any other party for any purpose/consideration whatsoever. The applicant have made a request to cancel the original licence in lieu of which duplicate copy has been applied for by them and undertake to return the original licence to the licensing authority if traced out later on. I am satisfied that the original Customs and Exchange Control copies of licence No. P/S/1778409/C/XX/58 dated 3-2-1976 have been lost and that duplicate customs copy and exchange control copy be issued to the applicant actual user. The original licence (both customs and Exchange copies) is hereby cancelled.

[No. AU/00265/14/AM-75/III/419]

(लोहा और इस्पात प्रखंड)

आदेश

कलकत्ता, 14 नवम्बर, 1977

का० आ० 425.—निदेशक, रेलवे भण्डार, रेल मंत्रालय (रेलवे बोर्ड), रेल भवन, रायसीना रोड, नई दिल्ली-1 को रेलवे बोर्ड को संविदा के अनुसार, भारतीय रेलों के रख रखाव की जरूरतों के लिए प्राइम स्टील एक्सस :—878 63/100 मि०/टन के आयात के लिए 11,74,100 रुपए (ग्यारह लाख चौहतर हजार एक सौ रुपए) के लागत बीमा भाड़ा मूल्य के लिए लाइसेंस संख्या जी/टी/जी/8215689/सी/एक्स एक्स/26/एस/सी/25-26/66/4 विनांक 16-1-68 प्रदान किया गया था। चूंकि उस लाइसेंस की मूल प्रति अस्थानस्थ हो गई है, रेलवे बोर्ड ने उसको अनुलिपि के लिए आवेदन किया है।

अपने तर्कों के समर्थन में रेलवे बोर्ड ने सब डिवीजनल मैजिस्ट्रेट के सम्मुख शपथ लेकर एक शपथ पत्र दाखिल किया है कि उक्त लाइसेंस रद्द, बन्धक, हस्तांतरित नहीं किया गया है या अन्य पार्टी को नहीं दिया गया है। रेलवे बोर्ड ने मूल लाइसेंस को रद्द करने का निवेदन किया है और उसके स्थान पर अनुलिपि प्रति के लिए आवेदन किया है और ध्वनित दिया है कि बाद में यदि लाइसेंस प्राप्त हो गया तो उसे लाइसेंस जारी करने वाले प्राधिकरण को वापस कर दिया जाएगा।

मैं इस बात से सन्तुष्ट हूँ कि लाइसेंस सं० जो०टो० जी/8215689/सी/एक्स एक्स/26/एस/सी/25-26/66/4 विनांक 16-1-68 की मूल सोमा शुल्क निकासी प्रति खो गई/अस्थानस्थ हो गई है और आदेश देता हूँ कि आवेदक को अनुलिपि लाइसेंस (सीमा शुल्क निकासी प्रति) जारी की जाए। एतद् द्वारा मूल सीमा शुल्क निकासी प्रति रद्द की जाती है।

[का० सं० जे० सी/स्टील/25-26/66/4]

आर० बारा, उप-मुख्य नियंत्रक,

कुल संयुक्त मुख्य नियंत्रक

(Iron & Steel Division)

ORDER

Calcutta, the 14th November, 1977

S.O. 425.—Director, Railway Stores, Ministry of Railways, (Railway Board), Rail Bhavan, Raisina Road, New Delhi-1 has granted a licence No. G/TG/8215689/C/XX/26/S/C/25-26/66/4 dated 16-1-1968 for a total c.i.f. value of Rs. 11,74,100/- (Rupees eleven lakhs seventy four thousand and one hundred only) for Prime Steel Axles—878-63/100 M/Tonnes for maintenance requirement of Indian Railways as per Railway Board's contract. Railway Board have applied for duplicate copy of licence as the original licence has been misplaced.

In support of their request Railway Board have filed an affidavit sworn in before the Sub Divisional Magistrate, New Delhi that the said licence has not been cancelled, pledged transferred or handed over to any other party. Railway Board have also requested to cancel the original licence in lieu of which the duplicate copy has been applied for by them and undertakes to return the original licence to the issuing authority if traced out later.

I am satisfied that the original Customs Copy of the licence No. G/TG/8215689/C/XX/26/S/C/25-26/66/4 dated 16-1-68 has been lost or misplaced and direct that a duplicate licence (Customs Purchase Copy) be issued to the applicant. The original Customs Purposes Copy of the licence is hereby cancelled.

[File No. JC/Steel/25-26/66/4]

R. BARA, Dy. Chief Controller
for Jt. Chief Controller

(मुख्य निर्यातक, आयात-निर्यात का कार्यालय)

आदेश

नई दिल्ली, दिनांक 29 दिसम्बर, 1977

कां०आ० 426.—सर्वश्री कटलर हैमर इण्डिया लिमिटेड, 20/4, मथुरा रोड, फरीदाबाद को आई०डी०ए० देशों से संलग्न सूची के अनुसार स्विचगीयर एवं मोटर नियंत्रण गीयर के विनिर्माण के लिए कच्चे माल और संघटकों आयात के लिए 7,42,000 रुपये मूल्य का आयात लाइसेंस सं० पी/डी/2208241/आर०आई०एन०/63/एच/76, दिनांक 24-6-77 प्रदान किया गया था।

2. उन्होंने उक्त लाइसेंस की अनुलिपि सीमा-शुल्क प्रयोजन प्रति जारी करने के लिए इस आधार पर आवेदन किया है कि उनसे मूल सीमा-शुल्क प्रयोजन प्रति खो गई है। लाइसेंसधारी ने आगे यह भी बताया है कि लाइसेंस में इसका पूर्ण मूल्य 7,42,000 रुपये अप्रयुक्त शेष है और लाइसेंस किसी भी सीमा-शुल्क प्राधिकारी के पास पंजीकृत नहीं किया गया है और यह पूर्णतः अप्रयुक्त है।

3. अपने तर्कों के समर्थन में आवेदक ने एक शपथ-पत्र दाखिल किया है। अधोहस्ताक्षरी संतुष्ट है कि आयात लाइसेंस सं० पी/डी/2208241/आर०आई०एन० 63/एच 76, दिनांक 24-6-77 की सीमा-शुल्क प्रयोजन प्रति खो गई है और निवेश देता है कि उक्त लाइसेंस की अनुलिपि सीमा-शुल्क प्रयोजन प्रति आवेदक को जारी की जानी चाहिए। मूल सीमा-शुल्क प्रयोजन प्रति रद्द की जाती है।

4. लाइसेंस की अनुलिपि सीमा-शुल्क प्रयोजन प्रति अलग से जारी की जा रही है।

[सं० एस० डब्ल्यू जी 11(4)/76-77/आर०एम० 6/787]

(Office of the Chief Controller of Imports and Exports,

New Delhi

ORDER

New Delhi, the 29th December, 1977

S.O. 426.—M/s. Cutler Hammer India Ltd. 20/4, Mathura Road, Faridabad, were granted import licence No. P/D/2208241/R/IN/63/H/76 dated 24-6-1977 for Rs. 7,42,000 for the import of Raw Materials and Components for the manufacture of Switchgear and Motor Control gear from I.D.A. countries as per list attached therewith.

2. They have requested for the issue of duplicate Customs Purposes copy of the above said licence on the ground that the original Customs Purposes copy has been lost by them. It has been further reported by the licensee that the licence had an un-utilised balance of Rs. 7,42,000/- full value of the licence, and that the licence has not been registered with any Customs Authorities and utilised at all.

3. In support of their contention, the applicant have filed an affidavit. The undersigned is satisfied that the original Customs Purposes copy of Import Licence No. P/D/2208241/R/IN/63/H/76 dated 24-6-77 has been lost and directs that a duplicate Customs Purposes copy of the said licence should be issued to the applicant. The original Customs Purposes copy is cancelled.

4. The Duplicate Customs Purposes copy of the licence is being issued separately.

[No. Swg. 11(4)/76-77/RM6/787]

आदेश

नई दिल्ली, 28 जनवरी, 1978

कां०आ० 427.—सर्वश्री वेस्ट बंगाल स्कूटर्स लि० 225-डी० आचार्य जगदीश बोस रोड, कलकत्ता-700020 को 1 सी०डी०एस० नलियों (1)

36 एम एम आई डी × 25 एमएम आई डी (2) 30 एमएम आई डी × 5 एमएम (3) 34 एमएम आई डी × 28 एमएम आई डी 2. रिडक्स 64 (एकायत मिश्रण) का समान्य मुद्रा क्षेत्र से आयात करने के लिए 75,000.00 रुपये मूल्य का आयात लाइसेंस सं० पी/डी/2422759 सी एकस एकस 60/एच/43-44 दिनांक 24-9-76 प्रदान किया गया था।

2. उन्होंने उपर्युक्त लाइसेंस की अनुलिपि सीमा-शुल्क प्रयोजन प्रति के लिए इस आधार पर आवेदन किया है कि मूल सीमा-शुल्क प्रयोजन प्रति किसी भी सीमा-शुल्क प्राधिकारी के पास पंजीकृत कराए बिना ही खो गई या अस्थानस्थ हो गई है। लाइसेंसधारी ने आगे यह भी सूचना दी है कि लाइसेंस कुछ भी उपयोग में लाए बिना ही खो गया है।

3. अपने तर्कों के समर्थन में, आवेदक ने एक शपथ-पत्र दाखिल किया है अधोहस्ताक्षरी संतुष्ट है कि कां०आ० सं० पी/डी/2422759 दिनांक 24-9-76 का मूल सीमा-शुल्क प्रयोजन प्रति खो गई या अस्थानस्थ हो गई है, अतः निदेश देता है कि आवेदक को उपर्युक्त ला० की अनुलिपि सीमा-शुल्क प्रयोजन प्रति जारी की जानी चाहिए। मूल सीमा-शुल्क प्रयोजन प्रति एतद्वारा रद्द की जाती है।

[संख्या आरटी डब्ल्यू-3(1)/ए०एम० 77/आर०एम० 4/196]

ORDER

New Delhi, the 28th January, 1978

S.O. 427.—M/s. West Bengal Scooters Ltd. 225-D Archarya Jagdish Bose Road, Calcutta-700020 were granted import licence No. P/D/2422759/C/XX/60/H/43-44 dated 24-9-1976 for import of 1. CDS Tubes (i) 36 MM ID X 25 MM ID (II) 30 MM ID X 5 MM (III) 34 MM ID X 28 MM ID 2. Redux 64 (Proprietary Compound) valued at Rs. 75,000 under GCA.

2. They have requested for the issued of duplicate Customs Purposes copy of the above said licence on the ground that the original customs purposes copy has been lost or misplaced without having been registered with any Customs Authority. It has further been reported by the licensee that the licence has been misplaced without being utilised at all.

3. In support of their contention, the applicant have filed an affidavit. The undersigned is satisfied that the Original Customs Purposes copy of import Licence No. P/D/2422759 dated 24-9-1976 has been lost or misplaced and hence directs that a duplicate Customs Purposes copy of the said licence should be issued to the applicant. The original Customs Purposes copy is hereby cancelled.

4. The Duplicate Customs Purposes copy of the said licence is being issued separately.

[File No. Auto/W-3(1)/AM 77/RM IV/196]

आदेश

नई दिल्ली, दिनांक 2 फरवरी, 1978

कां०आ० 428.—सर्वश्री वास रिपोट्रीकस लि०, कलकत्ता को कच्चे माल एवं संघटकों के आयात के लिए 1,00,000 रुपये के लिए आयात लाइसेंस सं० पी/डी/2207756/सी एकस एकस 63/एच/43-44 दिनांक 6-4-77 प्रदान किया गया था।

2. पार्टी ने अब बताया है कि इस लाइसेंस की सीमा-शुल्क प्रयोजन प्रति खो गई है और इस लाइसेंस की अनुलिपि प्रति जारी करने के लिए आवेदन किया है। यह लाइसेंस सीमा-शुल्क सदन, कलकत्ता में पंजीकृत कराया गया था और उसे 74,777 रुपये के लिए उपयोग में लाया गया था। अनुलिपि प्रति की आवश्यकता है शेष धनराशि 25,223 रुपये जेब है।

3. अपने तर्कों के समर्थन में पार्टी ने आयात व्यापार नियंत्रण ऐडबुक, 1977-78 की कंडिका 320 के अनुसार एक शपथ-पत्र दाखिल किया है। अधोदस्तावेज संतुष्ट है कि लाइसेंस की मूल सीमा शुल्क प्रतिबद्धता है और निवेश देता है कि पार्टी को सीमा शुल्क के प्रयोजनार्थ लाइसेंस सं० पी/डी/2207756, दिनांक 6-4-77 की अनुलिपि प्रति जारी की जानी चाहिए। इस लाइसेंस की मूल सीमा शुल्क प्रयोजन प्रति, यदि मिल गई तो इस कार्यालय को रद्द करने के लिए लौटा दी जाएगी।

लाइसेंसों की सीमा शुल्क प्रयोजन की अनुलिपि प्रति अब अलग से जारी की जा रही है।

[संख्या : ड्यूप-1(1)/76-77 आर एम-7/312]

आर०पी० बसु, उपमुख्य नियंत्रक

ORDER

New Delhi, the 2nd February, 1978

S.O. 428.—M/s. Das Reprographics Ltd., Calcutta, were granted import licence No. P/D/2207756/C/XX/63/H/43-44 dated 6-4-1977 for Rs. 1,00,000 for the import of Raw Material and components.

2. The firm have now reported that the Customs Purposes Copy of this licence has been lost and have requested for the issue of duplicate Customs Copy of this licence. This licence was registered with the Calcutta Customs House and was utilised for Rs. 74,777 leaving a balance of Rs. 25,223 for which duplicate Customs Copy is required.

3. In support of their contention the firm have filed an affidavit as required in para 320 of the I.T.C. Hand Book for 1977-78. The undersigned is satisfied that the original Customs Copy of the licence has been lost and directs that the duplicate copy for Customs Purposes only of licence No. P/D/2207756 dated 6-4-1977 should be issued to the firm. The original Customs Copy of this licence, if found will be forwarded to this office for cancellation.

The duplicate copy for Customs Copy of the licence is being issued separately.

[File No. Dup-1(1)76-77/RM-7/312]

R. P. BASU, Dy. Chief Controller

उद्योग मंत्रालय

(औद्योगिक विकास विभाग)

आदेश

नयी दिल्ली, 2 फरवरी, 1978

का० आ० 429-60(इ).—उद्योग (विकास और विनियमन) अधिनियम, 1951 (1951 का 65) की धारा 18क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार ने, भूतपूर्व उद्योग और नागरिक पूर्ति मंत्रालय (औद्योगिक विकास विभाग) के आदेश सं० का० आ० 55(अ)/18 कक/उ वि० वि० अ/75, तारीख 23 जनवरी, 1976, यथासंशोधित द्वारा उक्त आदेश के पैरा 2 में निर्दिष्ट व्यक्ति निकाय को गणेश फ्लावर मिल्स कम्पनी लिमिटेड, दिल्ली (जिसे इसमें इसके पश्चात् उक्त उपक्रम कहा गया है) का प्रबंध ग्रहण करने के लिए प्राधिकृत किया था ;

और केन्द्रीय सरकार यह आवश्यक समझती है कि उक्त व्यक्ति निकाय की नियुक्ति पर्यवसित कर दी जाए और उसके स्थान पर इस आदेश के पैरा 2 में निर्दिष्ट व्यक्ति निकाय को प्रबंध बोर्ड के रूप में प्राधिकृत किया जाए ;

अतः, अब, केन्द्रीय सरकार उद्योग (विकास और विनियमन) अधिनियम, 1951 (1951 का 65) की धारा 18क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त व्यक्ति-निकाय की नियुक्ति

की पर्यवसित करती है और उसके स्थान पर इस आदेश के पैरा 2 में निर्दिष्ट व्यक्ति-निकाय को निम्नलिखित निम्नधर्मों और शर्तों के अधीन रहते हुए उक्त उपक्रम के प्रबंध-बोर्ड के रूप में प्राधिकृत करती है, अर्थात्:—

- (i) बोर्ड केन्द्रीय सरकार द्वारा समय-समय पर जारी किए गए सभी निदेशों का पालन करेगा ;
- (ii) बोर्ड 2 फरवरी, 1980 तक, जिसमें यह तारीख भी सम्मिलित है, अपना पद धारण करेगा ;
- (iii) केन्द्रीय सरकार, बोर्ड या बोर्ड के किसी सदस्य की नियुक्ति को यदि वह ऐसा करना आवश्यक समझे तो, पहले भी पर्यवसित कर सकती है।

2. प्रबंध बोर्ड में निम्नलिखित होंगे; अर्थात्:—

अध्यक्ष

1. डा० एन० सी० बी० नाथ, निदेशक (रसायन), स्टील अथॉरिटी ऑफ इंडिया लिमिटेड, 14वीं मंजिल, हिन्दुस्तान टाइम्स हाउस, कस्तूरबा गांधी मार्ग, नयी दिल्ली।
- सदस्य
2. श्री पी० सुब्रह्मय्यम, अ० भा० सं०, मुख्य निदेशक (वनस्पति, वनस्पति-तेल और वसा निदेशालय) नागरिक पूर्ति और सहकारिता मंत्रालय, नयी दिल्ली।
3. श्री टी० तिवारी, महा प्रबंधक, भारत का औद्योगिक पुनर्संनिर्माण निगम, कलकत्ता।
4. श्री एल० के० मलहोत्रा, मुख्य कार्यपालक सदस्य, गणेश फ्लावर मिल्स कम्पनी लिमिटेड, नयी दिल्ली।
5. नागरिक पूर्ति और सहकारिता मंत्रालय का प्रांतीय वित्त सलाहकार, नयी दिल्ली।
6. श्री प्रोम प्रकाश जैन, 63 बरियागंज, नयी दिल्ली।
7. श्री विजयपाल सिंह, ई/10-एईस्ट आफ कैलाश, नयी दिल्ली।
8. श्री बी० आर० माहेश्वरी, चार्टर्ड एकाउंटेंट, 2 बी, कमिश्नर सेन, झलीपुर रोड, नयी दिल्ली।
9. श्री चरतीलाल गोयल, अधिवक्ता, सदस्य महानगर परिषद्, दिल्ली 4/7 रूपनगर, दिल्ली।
10. श्री आर० जी० राजाध्याय, ई-99, ग्रेटर कैलाश-1, नयी दिल्ली।

[सं० पा० 4/12/72-सी० ए० सी०]

पी० सी० नाथक, संयुक्त सचिव

आदेश

नई दिल्ली, 4 फरवरी, 1978

का०आ० 430.—केन्द्रीय सरकार, आवश्यक वस्तु अधिनियम, 1955 (1955 का 10) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कपास नियंत्रण आदेश, 1955 में और संशोधन करने के लिए निम्नलिखित आदेश करती है, अर्थात्:—

1. (1) इस आदेश का नाम कपास नियंत्रण आदेश, 1978 है।
- (2) यह राजपत्र में प्रकाशन की तारीख को प्रवृत्त होगा।

2. कपास नियंत्रण आदेश, 1955 में, खंड 2 के उपखण्ड (ग) की मद (2) के स्थान पर, निम्नलिखित मद रखी जाएगी, अर्थात्:—

- “(2) छोटी हुई और सम्प्राप्त कपास, और इसमें भारतीय तथा विदेशी दोनों कपास सम्मिलित हैं, किन्तु कपास के कायने

की विभिन्न प्रक्रियाओं के दौरान बाहर फेंके गए या तो शत-प्रतिशत कपास के या कपास और गैर-कपास तंतुओं के मिश्रण के सभी अपशिष्ट सम्मिलित नहीं हैं।"

[फा० सं० 7/19/77सी०टी०एम]

MINISTRY OF INDUSTRY
(Department of Industrial Development)

ORDER

New Delhi, the 4th February, 1978

S.O. 430.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Cotton Control Order, 1955, namely :—

1.(1) This Order may be called the Cotton Control Order, 1978.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Cotton Control Order, 1955, for item (2) of sub-clause (c) of clause 2, the following item shall be substituted, namely :—

"(2) ginned and pressed cotton, and includes both Indian and Foreign cotton, but excludes all the wastes comprising either 100 per cent cotton or a mixture of cotton and non-cotton fibres thrown out during various processes in the spinning of cotton."

[File No. 7/19/77-CTM]

आवेदन

फा०आ० 431.—केन्द्रीय सरकार, आवश्यक वस्तु अधिनियम, 1955 (1955 का 10) की धारा 3 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, वस्त्र (बुनाई, कढ़ाई, लेस निर्माण तथा मुद्रण मशीनों द्वारा उत्पादन) नियंत्रण आदेश, 1963 में और संशोधन करने के लिए निम्नलिखित आदेश करती है, अर्थात्:—

1. (1) इसका नाम वस्त्र (बुनाई, कढ़ाई, लेस निर्माण और मुद्रण मशीनों द्वारा उत्पादन नियंत्रण) (दूसरा संशोधन) आदेश, 1977 है।

(2) यह राजपत्र में प्रकाशन की तारीख को प्रवृत्त होगी।

2. वस्त्र (बुनाई, कढ़ाई, लेस निर्माण और मुद्रण मशीनों द्वारा उत्पादन) नियंत्रण आदेश, 1963 में खण्ड 7क के उप-खण्ड (1) के स्थान पर निम्नलिखित उप-खण्ड रखा जाएगा, अर्थात्:—

"(1) खण्ड 4 के उप-खण्ड (1) के उपबन्धों का पालन किए बिना कोई कढ़ाई मशीन, बुनाई मशीन, लेस निर्माण मशीन प्राप्त या अधिष्ठापित की हो, अथवा।"

[फा० सं० 11/6/76 सी०टी०एम०]

जी०वी० सुब्रामण्यम, प्रवर सचिव

ORDER

S.O. 431.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Textiles (Production by Knitting Embroidery, Lace Making and Printing Machines) Control Order, 1963, namely :—

1. (1) This Order may be called the Textiles (Production by Knitting, Embroidery, Lace Making and Printing Machines) Control (Amendment) Order, 1978.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Textiles (Production by Knitting, Embroidery, Lace Making and Printing Machines) Control Order, 1963, for sub-clause (i) of clause 7A, the following sub-clause shall be substituted, namely :—

"(i) has acquired or installed any embroidery machine, knitting machine or lace making machine without complying with the provisions of sub-clause (1) of clause 4, or".

[F. No. 11/6/76-CTM]

G. V. SUBRAMANYAM, Under Secy.

पेट्रोलियम मंत्रालय

नई दिल्ली, 28 जनवरी, 1978

फा०आ० 432.—यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम मंत्रालय की अधिसूचना का फा० सं० 3916 तारीख 7-10-76 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों के बिछाने के प्रयोजन के लिए अर्जित करने का अपना आग्रह घोषित कर दिया था।

और यतः सक्षम प्राधिकारी के उक्त अधिनियम की धारा की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और प्रागे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) प्रवृत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिये एतद्वारा अर्जित किया जाता है।

और, प्रागे उस धारा की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निदेश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल तथा प्राकृतिक गैस आयोग में सभी संघों से मुक्त रूप में, इस घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

व्ययन क्षेत्र के-114 से जी०जी०एस० 7 तक उपयोगकर्ता के अधिकार का अर्जन

राज्य	जिला	तानुका	गांधीनगर	
गांव	सर्वेक्षण नं०	हेक्टेयर ए०आर०	सेंटेयर	ई०
उत्तरप्रदेश	906/4	0	08	10
	906/3	0	09	69
	904	0	15	70
	903/1	0	07	96
	902.	0	03	64
	901/1	0	06	40
	901/2	0	03	38
	900/1	0	05	02
	989/3	0	09	96

1	2	3	4	5
उबरसद—जारी	989/1	0	01	00
	1090	0	11	25
	1088	0	12	61
	1087	0	06	02
	1089	0	00	30
	1083	0	07	41
	1082	0	19	97
	1100	0	01	40
	1105	0	14	86
	1104	0	06	94
	1107	0	11	70

[सं० 12016/9/76-प्रोडक्शन]

MINISTRY OF PETROLEUM

New Delhi, the 28th January, 1978

S.O. 432.—Whereas by a notification of the Government of India in the Ministry of Petroleum, S.O. No. 3916 dated 7-10-76 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of right of user in land) Act, 1962 (50 of 1962) the Central Government declares its intention to acquire the right user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline ;

And whereas the competent Authority has under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification ;

Now therefore in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines ;

And further in exercise of powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

Acquisition of right of user from D.S. No. K-114 to GGS-VII State : Gujarat District : Taluka : Gandhinagar

Village	Survey No.	Area		
		Hec-tare	Are	Centi-are
Uvarsad	906/4	0	08	10
	906/3	0	09	69
	904	0	15	70
	903/1	0	07	96
	902	0	03	64
	901/1	0	06	40
	901/2	0	03	38
	900/1	0	05	02
	989/3	0	09	96
	989/1	0	01	00
	1090	0	11	25
	1088	0	12	61
	1087	0	06	02
	1089	0	00	30
	1083	0	07	41
	1082	0	19	97
	1100	0	01	40
	1105	0	14	86
	1104	0	06	94
	1107	0	11	70

[No. 12016/9/76-Prod.]

नई दिल्ली, 30 जनवरी, 1978

कां०अ० 433.—यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि के उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम मंत्रालय की अधिसूचना कां० प्रा० सं० 768 तारीख 15-2-77 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारों के उक्त अधिनियम की धारा की उप-धारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अबः उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिये एतद्वारा अर्जित किया जाता है।

और, आगे उस धारा की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में सभी संश्लेषों से मुक्त रूप में, इस घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

कूप नं० एस० पी० एच० (ए) से एन० के० वी०

राज्य : गुजरात

गांव	खेत्रफल	सर्वेक्षण नं०	हेक्टर एं आर ई सेंटीयर	
			हेक्टर	एं आर ई सेंटीयर
भटारीया	जिला	137	0	15 00
	महमदाबाद			
	तालुका			
	विरमगाम			
मेहमदपुरा	जिला	107	0	15 50
	मेहसाणा	108	0	13 20
	तालुका	104/1	0	06 00
	मेहसाणा			

[सं० 12016/5/76-प्रोडक्शन]

New Delhi, the 30th January, 1978

S.O. 433.—Whereas by a notification of the Government of India in the Ministry of Petroleum, S.O. No. 768 dated 15-2-77 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of right of user in land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline ;

And whereas the competent Authority has under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification ;

Now therefore in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

Acquisition of right of user for D.S. SPH (A) To NKV. State:
Gujarat

Villages	Survey No.	Area		
		Hect-are	Are	Centi-are
Bhatariya				
District Ahmedabad	137	0	15	00
Taluka : Viramgam				
Mehmadpura				
District: Mehsana	107	0	15	50
Taluka Mehsana	108	0	13	20
	104/1	0	06	00

[No. 12016/5/76.Prod.]

नई दिल्ली, 31 जनवरी, 1978

का०आ० 434.—यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि के उपयोग के अधिकार का धर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) के अधीन भारत सरकार के पेट्रोलियम मंत्रालय की अधिसूचना का०आ० सं० 1392 तारीख 18-4-77 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी के उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन सरकार को रिपोर्ट दे दो है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करते के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अथ, अतः उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रवृत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिये एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी संयंत्रों से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

जी० एस० नं० के० एच० जेड० (के—187) से जी० जी० एस० तक पाइप लाइन बिछाना

राज्य : गुजरात जिला : मेहसाणा तालुका : कसोस

गांव	प्लॉक नं०	हेक्टेयर	क्षेत्रफल	
			ए.आर.ई.	सेंटीयर
ओला	341	0	11	50
कार्ट ट्रक		0	00	50
342		0	38	55
कार्ट ट्रक		0	01	35
454		0	31	50
सर्वे नं०				
ईसर	655	0	18	60
	656	0	15	37
	657/1	0	02	32
	658/4	0	00	50
	665/7	0	08	32
	665/3	0	09	15
	664/1	0	07	95
	664/4	0	12	75
	674/1	0	09	30
	672	0	11	20
	676	0	10	65
	682	0	07	00
	681	0	01	40

[सं० 12016/2/77-प्रोडक्शन]

New Delhi, the 31st January, 1978

S.O. 434.—Whereas by a notification of the Government of India in the Ministry of Petroleum, S.O. 1392 dated 28-4-77 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of right of user in land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the competent Authority has under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification;

Now therefore in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

Pipeline from D.S. KHZ (K-187) To G.G.S. V

State : Gujarat District : Mehsana Taluka Kalol

Village	Block No.	Area		
		Hect-are	Are	Centi-are
1	2	3	4	4
OLA	341	0	11	50
	Cart track	0	00	50
	342	0	38	55
	Cart track	0	01	35

1	2	3	4	5
OLA Contd.	454	0	31	50
	Survey No.			
ISAND	655	0	18	60
	656	0	15	37
	657/1	0	02	32
	658/4	0	00	50
	665/7	0	08	32
	665/3	0	09	15
	664/1	0	07	95
	664/4	0	12	75
	674/1	0	09	30
	672	0	11	20
	676	0	10	65
	682	0	07	00
	681	0	01	40

[No. 12016/2/77-Prod.]

का० जा० 435—यतः पेट्रोलियम और खनिज पाइप लाइन (भूमि के उपयोग के अधिकार प्रजनन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) के अधीन भारत सरकार के पेट्रोलियम मंत्रालय विभाग की अधिसूचना का०भा०सं० 2820 तारीख 24-8-77 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना प्राथम्य घोषित कर दिया था।

और यतः सश्रम प्राधिकारी के उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन सरकार को रिपोर्ट देनी है।

और अतः, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करते के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिये एतद्वारा अर्जित किया जाता है।

और अतः उस धारा की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेदन देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी संयंत्रों से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

क्र.सं.—के० प्रो० डी०-17 से जी० जी० एस०-2

राज्य : गुजरात जिला : मेहसाना तालुका : कसोल

गाँव	सर्वेक्षण नं०	हेक्टर	ऐरी प्राई सेंटीयर
सईज	624/3	0	21 00
	632/1	0	06 45
	632/2	0	00 50
	633	0	12 30
	638	0	03 90
	641	0	03 30
	642	0	01 80
	643/2	0	05 10
	644/1	0	04 25

1	2	3	4	5
सईज जारी	644/2	0	06	15
	648	0	03	15
	कार्ट ट्रैक	0	01	50
	730	0	35	15
	685	0	03	30
	706	0	20	25

[सं० 12016/2/77-प्रोडक्शन-II]

S.O. 435.—Whereas by a notification of the Government of India in the Ministry of Petroleum, S. O. No. 2820 dated 24-8-77 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of right of user in land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub section (1) of section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification ;

Now therefore in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines ;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

Acquisition of R.O.U. for laying pipeline from well No Kod 17 to GGS-II

State - Gujarat District : Mehsana Taluka Kalol

Village	Survey No.	Hect- are	Are	Centi- are
SAIJ	624/3	0	21	00
	632/1	0	06	45
	632/2	0	00	50
	633	0	12	30
	638	0	03	90
	641	0	03	30
	642	0	01	80
	643/2	0	05	10
	644/1	0	04	25
	644/2	0	06	15
	648	0	03	15
	Cart track	0	01	50
	730	0	35	15
	685	0	03	30
	706	0	20	25

[No. 12016/2/77—Prod. II]

कांभा 436.—यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि के उपयोग के अधिकार भर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) के अधीन भारत सरकार के पेट्रोलियम मंत्रालय को अधिसूचना कांभा सं० 2819 तारीख 24-8-77 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी के उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और प्रागे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रवक्ष्य शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिये एतद्वारा अर्जित किया जाता है।

और प्रागे उस धारा की उप-धारा (4) द्वारा प्रवक्ष्य शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस प्रायोग में, सभी संयंत्रों से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

क्रुप नं० सानन्द 1 और 33 से जी०जी० एस सीप

राज्य : गुजरात जिला : मेहसाना तालुका : कलोल

गांव	सर्वेक्षण नं०	हेक्टर	एरीआई	सेंटीयर
जेठलज	373/1	0	12	75
	372/1	0	08	60
	372/2	0	13	95
	355	0	08	88
	363	0	06	51
	362/2	0	04	19
	362/1	0	04	34
	कार्ट ट्रक	0	01	00
	475	0	04	96
	477/1	0	10	23
	477/2	0	08	72
	478/1/ए	0	08	99
	478/1/सी	0	08	84
	479/1/बी	0	01	60
	480/1	0	04	62
	480/2	0	06	36
	487	0	01	40
	486	0	14	75
	483	0	01	00
	484	0	12	87
	कार्ट ट्रक	0	01	00
	550/2	0	11	00
	550/1	0	12	00
	545	0	15	91
	544	0	08	06
	10	0	04	50
	13/1	0	04	03
	12	0	09	07

1	2	3	4	5
जेठलज—जारी	15	0	02	95
	11	0	00	50
	24/1	0	23	67
	24/2	0	07	86
	23/3	0	06	73
	23/2	0	05	65
	23/1	0	06	98
	23/4	0	02	14
	31	0	01	60
	32/1	0	07	44
	32/2	0	15	81
	44	0	13	33
	45	0	13	79
	46	0	09	00
	49	0	08	84
	50	0	20	30

[सं 12016/2/77-प्रोडक्शन-III]

S.O. 436.—Whereas by a notification of the Government of India in the Ministry of Petroleum, S. O. No. 2819 dated 24-8-77 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of right of user in land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub section (1) of section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification;

Now therefore in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

Acquisition of right of user for laying pipeline from sanand 1 & 33 to GGS SIP

State : Gujarat	District : Mehsana	Taluka : Kalol
Village	Survey No.	Hect- Are Centi- are
Jethalaj	373/1	0 12 75
	372/1	0 08 60
	372/2	0 13 95
	355	0 08 88
	363	0 06 51
	362/2	0 04 19
	362/1	0 04 34
	Cart track	0 01 00
	475	0 04 96
	477/1	0 10 23
	477/2	0 08 72

गैस का उपयोग में, सभी भारों से मुक्त रूप में, इस योजना के प्रकाशन की तारीख को निहित होगा।

अनुसूची

कूप नं० 205 (ए एन के ०५) से जीजीएस VI तक पाइपलाइन बिछाने के लिये उपयोग के अधिकार का अर्जन करना

राज्य : गुजरात जिला : ब्रोच तालुका : अंकलेश्वर

गांव	सर्वेक्षण नं०	हेक्टेयर ए आर ई सेंटेयर
हजात	87/क	0 17 16
	87/ख	0 13 65

[सं० 12016/3/77-प्रोडक्शन-I]

New Delhi, the 1st February

S.O. 437.—Whereas by a notification of the Government of India in the Ministry of Petroleum, S. O. No. 1393 dated 18-4-77 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub section (1) of section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification ;

Now therefore in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines ;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

Acquisition of R.O.U. for laying pipeline from well No. 205 (ANK-P) To GGS-VI

State : Gujarat	District : Broach	Taluka : Ankleshvar		
Village	Survey No.	Hect- are	Are	Centi- are
Hajat	87/A	0	17	16
	87/B	0	13	65

[No. 12016/3/77-Prod.-I]

का० आ० 437.—यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि के उपयोग के अधिकार अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम मंत्रालय की अधिसूचना का०आ० सं० 1393 तारीख 18-4-77 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइपलाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी के उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के प्रयोजन के लिये एतद्वारा अर्जित किया जाता है।

और, आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक

का० आ० 438.—यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि के उपयोग के अधिकार अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम मंत्रालय की अधिसूचना का०आ० सं० 2814 तारीख 20-8-77 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइपलाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया था।

और यतः सक्षम प्राधिकारी के उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

[No. 12016/2/77-Prod.-III]

मई दिल्ली, 1 फरवरी, 1978

श्रीर, प्रागे, यत. केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार प्रजित करने का विनिश्चय किया है।

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिये एतद्वारा प्रजित किया जाता है।

श्रीर, प्रागे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निदेश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी भागों से मुक्त रूप में, इस घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची

कूप नं० एस०एन० के०-8 से एस०एन०के०-1 तक उपयोग के अधिकार का अर्जन

राज्य : गुजरात	जिला : ब्रोच	तालुका : हंसोट	गांव	सर्वेक्षण सं०	है० ए आर ई सेंटेयर
			रोहिद	234/ख	0 08 06
				237	0 03 90
				259	0 12 74

[सं० 12016/3/77-प्रोद्घरण-II]

बी० आर० भल्ला, प्रवर सचिव

S.O. 438.—Whereas by a notification of the Government of India in the Ministry of Petroleum S. O. No. 2814 dated 20-8-77 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has after considering the said report, decided to acquire the right of user in the lands specified in the schedule appended to this notification;

Now therefore in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipelines;

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government vest on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

SCHEDULE

Acquisition of right of user from well no. SNK-8 to SNK-1				
State	Gujarat	District : Broach	Taluka : Hansot	
Village	Survey No.	Hect- are	Are	Centi- are
Rohid	234/B	0	08	06
	237	0	03	90
	259	0	12	74

[No. 12016/3/77-Prod. II]

B R. BHALLA, Under Secy.

नई दिल्ली, 27 जनवरी, 1978

का०आ० 439.—भारत सरकार के अधिसूचना के द्वारा जैसा कि यहाँ संलग्न अनुसूची में प्रदर्शित किया गया है और पेट्रोलियम और खनिज पाइपलाइन (प्रयोक्ता के भूमि अधिग्रहण अधिकार) अधिनियम, 1962 के खंड 6 के उपखंड (1) के अन्तर्गत प्रकाशित किया गया है, गुजरात राज्य के अक्लेश्वर तेल क्षेत्र में उक्त परिशिष्ट भूमि में खेधन स्थल सं० कुर्वा० नं० एस० पी० 1 से कुर्वा० नं० 23 जी०जी०एस० III तक पेट्रोलियम के लिए भूमि उपयोग के अधिकार प्राप्त किए गए हैं।

तेल एवं प्राकृतिक गैस आयोग ने उपयुक्त नियम के खंड 8 के उप-खंड (1) की धारा (1) में निविष्ट कार्य दिनांक 15-2-77 से समाप्त कर दिया गया है।

अतः अब पेट्रोलियम पाइपलाइन के नियम 4 (प्रयोक्ता के भूमि अधिग्रहण अधिकार) नियम, 1963 के अन्तर्गत तत्काल प्राधिकारी एतद्वारा उक्त तिथि को कार्य समाप्ति की तिथि अधिसूचित करते हैं।

अनुसूची

कुर्वा० नं० एस० पी० 1 से कुर्वा० नं० 23 जी०जी०एस० iii तक पाइप लाइन कार्य की समाप्ति

पत्रालय का नाम	गांव	का०आ० सं०	भारत के राजपत्र में प्रकाशन की तिथि	कार्य समाप्ति की तिथि
पेट्रोलियम	अदोल	2697	27-8-77	15-2-77

[सं० 12016/5/77-प्रोद्घरण-I]

New Delhi, the 27th January, 1978

S.O. 439—Whereas by the notification of Government of India as shown in the schedule appended hereto and issued under sub-section (i) of section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 the Right of User has been acquired in the lands specified in the schedule appended thereto for the transport of petroleum from d.s. No Well SP-I to Well No. 23 GGS III in Ankleshwar oil field in Gujarat state.

And Whereas the oil & Natural Gas Commission has terminated the operations referred to in clause (i) of sub-section (1) of section 7 of the said Act on 15-2-77.

Now therefore under Rule 4 of the Petroleum Pipelines (Acquisition of Right of User in land) Rules, 1963, the Competent Authority hereby notifies the said date as the date of termination of operation to above.

SCHEDULE

Termination of operation of Pipeline from D.S. well SP-I to Well No. 23 GGS III

Name of Ministry	Village	S.O. No.	Date of Publication in the Gazette of India	Date of termination of operation
Petroleum	Adol	2697	27-8-77	15-2-77

[No. 12016/5/77-Prod-I]

कां० 440.—भारत सरकार के अधिसूचना के द्वारा जैसा कि यहाँ संलग्न अनुसूची में प्रदर्शित किया गया है और पेट्रोलियम और खनिज पाइप लाइन (प्रयोक्ता के भूमि अधिग्रहण अधिकार) अधिनियम, 1962 के खण्ड 6 के उपखण्ड (i) के अन्तर्गत प्रकाशित किया गया है, गुजरात राज्य के मेहसाना तेल क्षेत्र में उक्त परिशिष्ट भूमि में वेधन स्थल सं० एस०पी०बी० से कड़ी 36 तक पेट्रोलियम के लिए भूमि उपयोग के अधिकार प्राप्त किए गए हैं।

तेल एवं प्राकृतिक गैस आयोग ने उपर्युक्त नियम के खण्ड 7 के उप-खण्ड (1) की धारा (1) में निर्दिष्ट कार्य दिनांक 17-11-75 से समाप्त कर दिया गया है।

अतः अब पेट्रोलियम पाइप लाइन के नियम 4 (प्रयोक्ता के भूमि अधिग्रहण अधिकार) नियम, 1963 के अन्तर्गत सक्षम प्राधिकारी एतद्वारा उक्त तिथि को कार्य समाप्ति की तिथि अधिसूचित करते हैं।

अनुसूची

एस०पी०बी० से कड़ी-36 तक पाइप लाइन कार्य की समाप्ति

मंत्रालय का नाम	गाँव	का०आ० सं०	भारत के राजपत्र में प्रकाशन की तिथि	कार्य समाप्ति की तिथि
पेट्रोलियम	बालमासन	2616	20-8-77	17-11-75

[सं० 12016/5/77-प्रोडक्शन-II]

S.O. 440.—Whereas by the notification of Government of India as shown in the schedule appended hereto and issued under sub-section (i) of section 6 of the Petroleum and Minerals pipelines (Acquisition of Right of User in land) Act, 1962 the Right of User has been acquired in the lands specified in the schedule appended thereto for the transport of petroleum from d.s. No. SPB to Kadi 36 in Mehsanar oil field in Gujarat State.

And whereas the Oil & Natural Gas Commission has terminated the operations referred to in clause (i) of sub-section (1) of section 7 of the said Act on 17-11-75.

Now therefore under Rule 4 of the Petroleum Pipelines (Acquisition of Right of User in land) Rules, 1963, the Competent Authority hereby notifies the said date as the date of termination of operation to above.

SCHEDULE

Termination of operation of Pipelines from D.S. SPB to Kadi-36.

Name of Ministry	Village	S.O. No.	Date of publication in the Gazette of India	Date of termination of operation
Petroleum	Balsasan	2616	20-8-77	17-11-75

[No. 12016/5/77-Prod. II]

कां० 441.—भारत सरकार के अधिसूचना के द्वारा जैसा कि यहाँ संलग्न अनुसूची में प्रदर्शित किया गया है और पेट्रोलियम और खनिज पाइप लाइन (प्रयोक्ता के भूमि अधिग्रहण अधिकार) अधिनियम, 1962 के खण्ड 6 के उपखण्ड (i) के अन्तर्गत प्रकाशित किया गया है, गुजरात राज्य के अहमदाबाद तेल क्षेत्र में उक्त परिशिष्ट भूमि में वेधन स्थल सं०

के०डी०आर०-19 से जी०जी०एस० VII तक पेट्रोलियम के लिए भूमि उपयोग के अधिकार प्राप्त किए गए हैं।

तेल एवं प्राकृतिक गैस आयोग ने उपर्युक्त नियम के खण्ड 7 के उप-खण्ड (1) की धारा (1) में निर्दिष्ट कार्य दिनांक 5-7-75 से समाप्त कर दिया गया है।

अतः अब पेट्रोलियम पाइप लाइन के नियम 4 (प्रयोक्ता के भूमि अधिग्रहण अधिकार) नियम, 1963 के अन्तर्गत सक्षम प्राधिकारी एतद्वारा उक्त तिथि को कार्य समाप्ति की तिथि अधिसूचित करते हैं।

अनुसूची

वेधन 76 के०डी० आर०-19 से जी०जी०एस०-VII तक पाइप लाइन कार्य की समाप्ति

मंत्रालय का नाम	गाँव	का०आ० सं०	भारत के राजपत्र में प्रकाशन की तिथि	कार्य समाप्ति की तिथि
पेट्रोलियम	उवारसाद	956	26-3-77	5-7-75

[सं० 12016/5/77-प्रोडक्शन III]

S.O. 441.—Whereas by the notification of Government of India as shown in the schedule appended hereto and issued under sub-section (i) of section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 the Right of User has been acquired in the lands specified in the schedule appended thereto for the transport of petroleum from d.s. no. KDR-19 to GGS VII in Ahmedabad oil field in Gujarat state.

And whereas the Oil & Natural Gas Commission has terminated the operations referred to in clause (i) of sub-section (1) of section 7 of the said Act on 5-7-75.

Now therefore under Rule 4 of the Petroleum Pipelines (Acquisition of Right of User in Land), Rules, 1963, the Competent Authority hereby notifies the said date as the date of termination of operation to above.

SCHEDULE

Termination of operation of pipelines from D.S. KDR-19 to GGS VII

Name of Ministry	Village	S.O. No.	Date of Publication in the Gazette of India	Date of termination of operation
Petroleum	Uvarsaa	956	26-3-77	5-7-75

[No. 12016/5/77-Prod. III]

कां० 442.—भारत सरकार के अधिसूचना के द्वारा जैसा कि यहाँ संलग्न अनुसूची में प्रदर्शित किया गया है और पेट्रोलियम और खनिज पाइप लाइन (प्रयोक्ता के भूमि अधिग्रहण अधिकार) अधिनियम, 1962 के खंड 6 के उपखंड (1) के अन्तर्गत प्रकाशित किया गया है, गुजरात राज्य के मेहसाना तेल क्षेत्र में उक्त परिशिष्ट भूमि में वेधन स्थल सं० कुआंनं० 65, 67, 68, 69 से जी०जी०एस०/मी०टी० एफ० कड़ी तक पेट्रोलियम के लिए उपयोग के अधिकार प्राप्त किए गए हैं।

अतः अब प्राकृतिक गैस प्रायोग ने उपर्युक्त नियम के खण्ड 7 के उप-खण्ड (1) की धारा (1) में निविष्ट कार्य दिनांक 27-8-75 से समाप्त कर दिया गया है।

अतः अब पेट्रोलियम पाइप लाइन के नियम 4 (प्रयोक्ता के भूमि अधिग्रहण अधिकार) नियम, 1963 के अन्तर्गत सक्षम प्राधिकारी एतद्-द्वारा उक्त विधि को कार्य समाप्ति की विधि अधिसूचित करते हैं।

अनुसूची

अधिनक्षेत्र कुआं नं० 65, 67, 68, 69 से जी०जी०एस/सी०टी०एफ० कड़ी तक पाइप लाइन कार्य की समाप्ति

मंत्रालय का नाम	गाँव	का०आ० सं०	भारत के राजपत्र में प्रकाशन की तिथि	कार्य समाप्ति की तिथि
पेट्रोलियम	मेहमदपुरा बालसासन चालसान	2203	2-7-77	27-8-75

[सं० नं० 12016/5/77-प्रोडक्शन-IV]

जी०के० दुवाणी, गुजरात के लिए नियमान्तर्गत सक्षम प्राधिकारी

S.O. 442.—Whereas by the notification of Government of India as shown in the schedule appended hereto and issued under sub-section (i) of section 6 of the Petroleum and Minerals Pipelines (Acquisition of right of User in land) Act, 1962 the Right of User has been acquired in the lands specified in the schedule appended hereto for the transport of petroleum from d.s. No. Well no. 65, 67, 68, CTF & 69 to GGS (Kadi in Mehsana oil field in Gujarat state.

And where as the Oil & Natural Gas Commission has terminated the operations referred to in clause (i) of sub-section (1) of section 7 of the said Act.

Now therefore under Rule 4 of the Petroleum Pipeline (Acquisition of Right of user in Land) Rules, 1963, the Competent Authority hereby notifies the said date as the date of termination of operation to above.

SCHEDULE

Termination of operation of Pipelines from D.S. Well no. 65, 67, 68 & 69 to GGS-CTF Kadi.

Name of Ministry	Village	S.O. No	Date of publication in the Gazette of India	Date of termination of operation
Petroleum	Mehmed-pura Balsasan Chalasani	2203	2-7-77	27-8-75

[No. 12016/5/77-Prod. IV]

G.K. DUDANI, Competent Authority under the act for Gujarat

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 21 मितम्बर, 1977

का०आ० 443.—केन्द्रीय सरकार, अधिविधि और प्रसाधन सामग्री अधिनियम, 1940 (1940 का 23) की धारा 5 की उपधारा (1)

और (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के स्वास्थ्य और परिवार कल्याण मंत्रालय (स्वास्थ्य विभाग) की अधिसूचना सं० का०आ० 1772, तारीख 26 मई, 1973 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, "धारा 5 की उपधारा 2 के खंड (10) के अधीन निर्वाचित" शीर्षक के अन्तर्गत विद्यमान प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात् :—

"प्राचार्य हरकिशन सिंह, वैयक्तिक विज्ञान के विभागाध्यक्ष, पंजाब विश्वविद्यालय, लुधियाना को 18 फरवरी, 1977 से अधिविधि तकनीकी बोर्ड के सदस्य के रूप में।"

[सं० एक्स 19012/3/76-डी० एण्ड एम० एस०]

आशा शर्मा, प्रवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 21st September, 1977

S.O. 443.—In exercise of the powers conferred by sub-section (1) and sub-section (2) of section 5 of the Drugs and Cosmetics Act, 1940 (23 of 1940), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) No. S.O. 1772, dated the 26th May, 1973, namely :—

In the said notification under the head "Elected under clause (x) of sub-section 2 of section 5", for the existing entry, the following entry shall be substituted, namely :—
"Professor Harkishan Singh, Head of the Department of Pharmaceutical Sciences Punjab University Chandigarh, as a member of the Drugs Technical Advisory Board, with effect from the 18th February, 1977.

[No. X. 19012/3/76-D&MS]

MRS. ASHA SHARMA, Under Secy.

प्रवेश

नई दिल्ली, 30 जनवरी, 1978

का०आ० 444:—यतः भारत सरकार के भूतपूर्व स्वास्थ्य मंत्रालय की 31 जनवरी, 1972 की अधिसूचना संख्या 19-37/71-एम पी टी द्वारा केन्द्रीय सरकार ने निदेश दिया है कि भारतीय चिकित्सा परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजनों के लिए यूनिवर्सिटी ऑफ रोम, इटली द्वारा प्रवृत्त एम डी (रोम) चिकित्सा अर्हता माध्यम चिकित्सा अर्हता होगी ;

और यतः डा० मेरिया पिया रेग्गी जिनके पास उक्त अर्हता है, अनुसंधान और घमोले कार्य के प्रयोजनों के लिए फिलहाल मेडिकल सर्विस सेंटर, शिनाय रोड, बलूर, एनर्कुलम, कोचीन-17, केरल के साथ सम्बद्ध हैं ;

अतः अब उक्त अधिनियम की धारा 14 की उपधारा (1) के परस्पर के भाग (ग) का पालन करते हुए केन्द्रीय सरकार एतद्द्वारा—

(1) सरकारी राजपत्र में प्रकाशित होने की तिथि से दो वर्ष की,

अथवा

(2) उस अवधि तक जब तक डा० मेरिया पिया रेग्गी मेडिकल सर्विस सेंटर शिनाय रोड, बलूर, एनर्कुलम, कोचीन-17, केरल के साथ सम्बद्ध रहते हैं, जो भी कम हो वह अवधि विनिश्चित करती है, जिसमें पूर्वोक्त डा० मेडिकल प्रेक्टिस कर सकेंगे।

[सं० बी० 11016/32/77-एम पी टी/एम ई (पी)]

आर० बी० श्रीनिवासन्, उप सचिव

New Delhi, the 30th January, 1879

ORDER

S.O. 444.—Whereas by the notification of the Government of India in the late Ministry of Health No. 19-37/71-MPT, dated the 31st January, 1972, the Central Government has directed that the Medical qualification "M. D. (Rome)" granted by the University of Rome, Italy, shall be a recognised medical qualification for the purposes of the Indian Medical Council Act 1956 (102 of 1956);

And whereas Dr. Maria Pia Reggi, who possesses the said qualification is for the time-being attached to the Medical Service Centre, Shenoy Road, Kaloor, Ernakulum, Cochin 17, Kerala for the purposes of research and Charitable work;

Now, therefore, in pursuance of clause (c) of the proviso to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies :—

- (i) a further period of two years from the date of publication of this order in the Official Gazette, or
- (ii) the period during which Dr. Maria Pia Reggi is attached to the said Medical Service Centre Shenoy Road, Kaloor, Ernakulum, Cochin-17 Kerala, whichever is shorter, as the period to which the medical practise by the aforesaid doctor shall be limited.

[No. V. 11016/32/77-MPT]ME(P)]

R. V. SRINIVASAN, Dy. Secy.

इस्पात और खान मंत्रालय

(इस्पात विभाग)

नई दिल्ली, 30 जनवरी, 1978

का० आ० 445.—केन्द्रीय सरकार, इंडियन आयरन एंड स्टील कम्पनी (शेयरों का अधिग्रहण) अधिनियम, 1976 (1976 का 89) की धारा 5 की उपधारा (2) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, एतद्वारा लोहा और इस्पात नियंत्रक, कलकत्ता कार्यालय के अधीक्षक श्री एस० आर० बरुआ चौधरी को 21-1-1978 से तथा अगले आदेश दिए जाने तक तदर्थ आधार पर सहायक संवाय आयुक्त नियुक्त करती है। उनकी नियुक्ति श्री बी० डी० विश्वास के स्थान पर की गई है, जिनकी लोहा तथा इस्पात नियंत्रक के कार्यालय में बदली हो गई है।

[सं० इंड (II) 8 (108)/76]

रा० मलिकार्जुनन, उप-सचिव

MINISTRY OF STEEL AND MINES

(Department of Steel)

New Delhi, the 30th January, 1978

S.O. 445.—In exercise of the powers conferred by sub-section (2) of section 5 of the Indian and Steel Company (Acquisition of Shares) Act, 1976 (89 of 1976) the Central Government appoint with effect from the 21st January 1978 and until further orders, Shri S. R. Barua Chowdhury, Superintendent in the Office of the Iron and Steel Controller, Calcutta as Assistant Commissioner of Payments on an ad hoc basis in place of Shri B. B. Biswas transferred to the Office of the Iron and Steel Controller.

[No. Ind. (II) 8(108)/76]

R. MALLIKARJUNAN, Dy. Secy.

कृषि और सिंचाई मंत्रालय

(ख.स्य विभाग)

शुद्धि-पत्र

नई दिल्ली, 18 जनवरी, 1978

का०आ० 446.—1. इस विभाग के तारीख 4-3-77 के शुद्धि-पत्र सं० 52/7/74-एफ० सी० III (वाल्सूम-8) में निम्नलिखित शुद्धियाँ की जाएं :—

शुद्धि पत्र में क्रम संख्या	की जाने वाली शुद्धियाँ
1504	"श्री चन्द्र बहादुर थापा पुत्र श्री बलवीर सिंह थापा" के स्थान पर "श्री चन्द्र बहादुर थापा पुत्र श्री फतेस बहादुर" पढ़ें।

2. इस विभाग के तारीख 23-3-76 के आदेश सं० 52/8/73-एफ० सी० III (वाल्सूम-5) में निम्नलिखित शुद्धियाँ की जाएं :—

आदेश में क्रम संख्या	की जाने वाली शुद्धियाँ
196	कालम 2 में "श्री यादराम" के स्थान पर "श्री यादराम-सी" पढ़ें।

3. इस विभाग के तारीख 11-6-74 के आदेश सं० 52/21/68 एफ० सी० III (एन० जैड)-वाल्सूम 7 में निम्नलिखित शुद्धियाँ की जाएं :—

आदेश में क्रम संख्या	की जाने वाली शुद्धियाँ
24	(i) कालम 3 में "वही" के स्थान पर "तकनीकी अधिकारी" पढ़ें। (ii) कालम 4 में "सहायक निदेशक" के स्थान पर "तकनीकी अधिकारी" पढ़ें।
25	(i) कालम 3 में "वही" के स्थान पर "सहायक निदेशक" पढ़ें। (ii) कालम 4 में "वही" के स्थान पर "सहायक निदेशक" पढ़ें।
637	कालम 2 में "श्री एम० बी० ताम्बियार" के स्थान पर "श्री एम० बी० एन० ताम्बियार" पढ़ें।

4. इस विभाग के तारीख 11-10-72 के आदेश सं० 52/21/68 आर० ई०-1 में निम्नलिखित शुद्धियाँ की जाएं :—

आदेश में क्रम संख्या	की जाने वाली शुद्धियाँ
1750	कालम 2 में "श्री एल० टी० दुलानी" के स्थान पर "श्री जी० टी० दुलानी" पढ़ें।
813	कालम 2 में "श्रीमती मारिया कुट्टी वरगीस" के स्थान पर "श्रीमती मार्ग कुट्टी वरगीस" पढ़ें।
1412	(i) कालम 3 में (--) के स्थान पर "गोदाम अधीक्षक" पढ़ें। (ii) कालम 4 में "वही" के स्थान पर "गोदाम अधीक्षक" पढ़ें।
1413	कालम 4 में "वही" के स्थान पर "वरिष्ठ गोदाम रक्षक" पढ़ें।
2666	कालम 2 में "श्री डी० एम० जाला" के स्थान पर "श्री डी० एम० जाला" पढ़ें।

5. इस विभाग के तारीख 27-7-74 के आदेश सं० 52/7/74 एफ० सी० III में निम्नलिखित शुद्धियाँ की जाएं :—

आदेश में क्रम संख्या	की जाने वाली शुद्धियाँ
2	कालम 3 में (—) के स्थान पर "सहायक निदेशक (सामान्य)" पढ़ें ।

6. इस विभाग के तारीख 24-9-1973 के आदेश सं० 52/21/68 आर० ई० 1/एफ० सी० III में निम्नलिखित शुद्धियाँ की जाएं :—

आदेश में क्रम संख्या	की जाने वाली शुद्धियाँ
2000	कालम 3 में "वही" के स्थान पर "इन्चार्ज" पढ़ें ।
2001	कालम 3 में "वही" के स्थान पर "अपरासी" पढ़ें ।

7. इस विभाग के तारीख 29-7-1976 के शुद्धियाँ सं० 52/22/74 एफ० सी० III (वाल्सूम 4) में निम्नलिखित शुद्धियाँ की जाएं :—

शुद्धि पत्र में क्रम संख्या	की जाने वाली शुद्धियाँ
4950	रद्द कर दिया जाए।

[सं० 52/7/74-एफ० सी० III (वाल्सूम 10)]

एस० एल० कम्बोइ, अवर सचिव

MINISTRY OF AGRICULTURE & IRRIGATION

(Department of Food)

New Delhi, the 18th January, 1978

CORRIGENDUM

S.O. 446.—In this Department Corrigendum No. 52/7/74-FC.III (Vol. VIII), dated 4-3-77, the following correction shall be carried out :

S.No. in the Corrigendum	Correction to be carried out
1504	For the words "Shri Chandra Bahadur Thapa S/o Shri Balbir Thapa", read "Shri Chandra Bahadur Thapa S/O Shri Fatesh Bahadur".

2. In this Department Order No. 52/8/73-FC-III (Vol. V), dated 23-3-76, the following correction shall be carried out :

S.No. in the Order	Correction to be carried out
196	For the words "Shri Yad Ram" in col. 2, read "Shri Yad Ram C".

3. In this Department Order No. 52/21/68-FC-III (NZ)/Vol. VII, dated 11-6-74, the following corrections shall be carried out :

S. No. in the Order	Corrections to be carried out
24	(i) For the word "Do" in col. 3, read "Technical Officer". (ii) For the words "Assistant Director" in col. 4, read "Technical Officer".
25	(i) For the word "Do" in col. 3, read "Assistant Director". (ii) For the word "Do" in col. 4, read "Assistant Director".
637	For the words "Shri M.V. Nambiar" in col. 2, read "Shri M.V. N. Nambiar".

4. In this Department Order No. 52/21/68-RE.I, dated 11-10-72, the following corrections shall be carried out :

S.No. in the Order	Corrections to be carried out
1750	For the words "Shri L.T. Dulani" in col. 2, read "Shri G.T. Dulani".
813	For the words "Mrs. Mariakutty Varghese" in col. 2, read "Mrs. Murykutty Varghese".
1412	(i) For the "Dash" in col. 3, read "Godown Superintendent". (ii) For the word "Do" in col. 4, read "Godown Superintendent".
1413	For the word "Do" in col. 4, read "Senior Godown Keeper".
2666	For the words "Shri D.M. Jhala, in col. 2, read "Shri B.M. Zala".

5. In this Department Order No. 52/7/74-FC-III, dated 27-7-74, the following correction shall be carried out :

S. No. in the Order	Correction to be carried out
2	For the "Dash" in Col. 3, read "Assistant Director (General)".

6. In this Department Order No. 52/21/68-RE.I/FC-III, dated 24-9-1973, the following corrections shall be carried out :—

S.No. in the Order	Correction to be carried out
2000	For the word "Do" in col. 3. read "Driver".
2001	For the word "Do" in col. 3, read "Peon"

7. In this Department Corrigendum No. 52/22/74-FC-III (Vol. IV), dated 29-7-1976, the following correction shall be carried out :—

S.No. in the Corrigendum	Correction to be carried out
4950	May be cancelled.

[No. 52/7/74-FC-III (Vol. X)]
S. L. KAMBOH, Under Secy.

पर्यटन और नागर विमानन मंत्रालय

नई दिल्ली, 31 जनवरी, 1978

का० आ० 447.—अंतर्राष्ट्रीय विमानपत्तन प्राधिकरण अधिनियम, 1971 (1971 का 43) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा निम्नलिखित को तत्काल 3 वर्ष की अवधि के लिए भारत अंतर्राष्ट्रीय विमानपत्तन प्राधिकरण के प्रशासक सदस्य नियुक्त करती है :—

- (1) श्री पी० बी० पीठवाधियन, मैनेजिंग पार्टनर, मैसर्स पीठवाधियन एंड पार्टनर्स, कंसल्टिंग आर्किटेक्ट्स, मद्रास ।
- (2) श्री एन० के० सोमानी, उद्योगपति, श्रीनिवास हाउस, हजारीमल सोमानी मार्ग, बम्बई ।

[सं० ए० बी०-24012/3/77-ए० ए० पार्टे]

सी० एल० डिंगरा, उप सचिव

MINISTRY OF TOURISM AND CIVIL AVIATION

New Delhi, the 31st January, 1978

S.O. 447.—In exercise of the powers conferred by section 3 of the International Airports Authority Act, 1971 (43 of 1971), the Central Government hereby appoints the following as part-time Members of the International Airports Authority of India, with immediate effect for a period of 3 years :—

- (1) Shri P. B. Pithavadian, Managing Partner, M/s. Pithavadian & Partners, Consulting Architects, Madras.
- (2) Shri N. K. Somani, Industrialist, Shreeniwas House, Hazarimal Somani Marg, Bombay.

[No. AV-24012/3/77-AA. P1]

C. L. DHINGRA, Dy. Secy.

नौवहन और परिवहन मंत्रालय

(परिवहन पक्ष)

नई दिल्ली, 2 फरवरी, 1978

का०आ० 448.—केन्द्रीय सरकार, डॉक कर्मकार (नियोजन का विनियमन) अधिनियम, 1948 (1948 का 9) की धारा 5क की उपधारा (3) और (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपाध्यक्ष कांडला पत्तन न्यास, गांधीधाम के स्थान पर यातायात प्रबंधक, कांडला पत्तन न्यास, गांधीधाम को कांडला डॉक श्रमिक बोर्ड का सदस्य नियुक्त करती है और भारत सरकार के नौवहन और परिवहन मंत्रालय (परिवहन पक्ष) की अधिसूचना सं० का० आ० 2100, तारीख 21 जून, 1975 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में—

- (i) "केन्द्रीय सरकार का प्रतिनिधित्व करने वाले सदस्य" शीर्षक के नीचे मद्र 4 के सामने प्रविष्टि "उपाध्यक्ष कांडला पत्तन न्यास, गांधीधाम," के स्थान पर प्रविष्टि "यातायात प्रबंधक, कांडला पत्तन न्यास, गांधीधाम" रखी जाएगी ;
- (ii) पैरा 2 के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात् :—

"2. केन्द्रीय सरकार श्री एस० एल० वर्मा, अध्यक्ष कांडला पत्तन न्यास, गांधीधाम को उक्त बोर्ड का अध्यक्ष नामनिर्दिष्ट करती है।"

[सं० एल० जी० के०/26/77-डो-4]

MINISTRY OF SHIPPING & TRANSPORT

(Transport Wing)

New Delhi, the 2nd February, 1978

S.O. 448.—In exercise of the powers conferred by sub-sections (3) and (4) of section 5A of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby appoints the Traffic Manager, Kandla Port Trust, Gandhidham as a member of the Kandla Dock Labour Board vice the Deputy Chairman, Kandla Port Trust, Gandhidham and makes the following amendments in the notification of the Government of India in the Ministry of Shipping and Transport (Transport Wing) No. S.O. 2100, dated the 21st June, 1975, namely :—

In the said notification—

- (i) under the heading "Members representing the Central Government", against item 4, for the entry, "The Deputy Chairman, Kandla Port Trust, Gandhidham", the entry "The Traffic Manager, Kandla Port Trust, Gandhidham" shall be substituted ;
- (ii) for paragraph 2, the following paragraph shall be substituted, namely :—

"2. The Central Government hereby nominates Shri S. L. Verma, Chairman, Kandla Port Trust, Gandhidham as the Chairman of the said Board."

[No. LDK/26/77-D. IV]

नई दिल्ली, 6 फरवरी, 1978

का० आ० 449.—केन्द्रीय सरकार, डाक कर्मकार (नियोजन का विनियमन) अधिनियम, 1948 (1948 का 9) की धारा 8 की उपधारा (1) और (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, डाक कर्मकार (नियोजन का विनियमन) नियम, 1962 में और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :—

1. (1) इन नियमों का नाम डाक कर्मकार (नियोजन का विनियमन) द्वितीय संशोधन नियम, 1978 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. डाक कर्मकार (नियोजन का विनियमन) नियम, 1962 में,—

(1) नियम 2 के खण्ड (ग) के पश्चात् निम्नलिखित अन्तर्स्थापित किया जाएगा, अर्थात् :—

“(गक) “उपाध्यक्ष” से बोर्ड का उपाध्यक्ष अभिप्रेत है;”

(ii) नियम 7 के उपनियम (i) के खण्ड (ख) में, “(और उसकी अनुसूचि में बम्बई, कलकत्ता, कोचीन, मद्रास, मोरमगाओ और विशाखा-पत्तन पत्तनों के उपाध्यक्ष)” कोष्ठकों और शब्दों के स्थान पर “और उनकी अनुसूचि में उपाध्यक्ष” शब्द रखे जाएंगे।

[सं० एलडीओ/204/77-डी-4]

व.० शंकरलिंगम्, अवर सचिव

New Delhi, the 6th February, 1978

S.O. 449.—In exercise of the powers conferred by sub-sections (1) and (2) of section 8 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following rules further to amend the Dock Workers (Regulation of Employment) Rules, 1962, namely :—

1. (1) These rules may be called the Dock Workers (Regulation of Employment) Second Amendment Rules, 1978.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Dock Workers (Regulation of Employment) Rules, 1962,—

(i) after clause (c) of rule 2, the following shall be inserted, namely :—

“(ca) “Deputy Chairman” means the Deputy Chairman of the Board;” ;

(ii) in clause (b) of sub-rule (1) of rule 7, for the brackets and words “(and in his absence the Deputy Chairman in the Ports of Bombay, Calcutta, Cochin, Madras, Mormugao and Visakhapatnam)”, the words “and in his absence the Deputy Chairman” shall be substituted.

[No. LDO/204/77-D. IV]

V. SANKARALINGAM, Under Secy.

आदेश

नई दिल्ली, 31 जनवरी, 1978

का० आ० 450.—केन्द्रीय सरकार, भारतीय पत्तन अधिनियम, 1908 (1908 का 15) की धारा 34 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, क्रमशः भारत के महापत्तनों के लिए उक्त अधिनियम की

धारा 36 के अधीन नियुक्त किए गए प्राधिकारियों से परामर्श करने के पश्चात् वैज्ञानिक और औद्योगिक अनुसंधान परिषद् के तथा समुद्रविज्ञान अनुसंधान कार्य के लिए नियुक्त धार० वी० ‘गवेषणी’ जलयान को, राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से भारत के महापत्तनों में से प्रत्येक पर उस अधिनियम की धारा 33 के अधीन उद्ग्रहणीय पत्तन-शोध्यों के संदाय से छूट देती है।

[सं० फा० सं० पी जी आर-26/76]

एम० आर० गणवाल, अवर सचिव

ORDER

New Delhi, the 31st January, 1978

S.O. 450.—In exercise of the powers conferred by section 34 of the Indian Ports Act, 1908 (15 of 1908), the Central Government, after consulting the respective authorities appointed under section 36 of the said Act for the major ports in India, hereby exempts the vessel R. V. “GAVESHANI” belonging to the Council of Scientific and Industrial Research and commissioned for oceanographic research work, from the payment of port-dues, leviable under section 33 of that Act at each of the major ports in India from the date of publication of this Order in the Official Gazette.

[F. No. PGR-26/76]

M. R. GATHWAL, Under Secy.

नई दिल्ली, 1 फरवरी 1978

(व्यापार पोत)

का० आ० 451.—व्यापार पोत अधिनियम, 1958 (1958 का 44) की धारा 23 तथा 24 जो कि पाल पोतों को लागू होती है, द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और परिवहन मंत्रालय (परिवहन पक्ष) की अधिसूचना सं० का० आ० 3583, दिनांक 5 अक्तूबर, 1964 को अधिक्रांत करते हुए केन्द्रीय सरकार भूतपूर्व परिदहन और संचार मंत्रालय, परिवहन विभाग की अधिसूचना सं० का० आ० 3142, दिनांक 17 दिसम्बर, 1960 में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में काकीनाडा संबंधी प्रविष्टि के बाद निम्नलिखित और जोड़ा जाए, अर्थात् :—

“गोवा-सर्वेक्षक, प्रभारी, जल परिवहन विभाग, मारमुशाव”।

[सं० एमएसआर (12)/77एमए-1]

श्रीमती बी० निर्मल, अवर सचिव

New Delhi, the 1st February, 1978

(Merchant Shipping)

S.O. 451.—In exercise of the powers conferred by sections 23 and 24 of the Merchant Shipping Act, 1958 (44 of 1958), as applied to Sailing Vessels, and in supersession of the notification of the Government of India in the late Ministry of Transport (Transport Wing) No. S.O. 3583, dated the 5th October, 1964 the Central Government hereby makes the following amendment in the Notification of the Government of

India in the erstwhile Ministry of Transport and Communications, Department of Transport No. S.O. 3142, dated the 17th December, 1960, namely :—

In the Schedule to the said notification after the entry relating to Kakinada, the following shall be added, namely :—

"Goa—The Surveyor-In-charge, Mercantile Marine Department Mormugao".

[No. 5-M.S.R.(12)/77-MA-I]
SMT. B. NIRMAL, Under Secy.

नई दिल्ली, 4 फरवरी, 1978

क्र० आ० 452.—दीपघर अधिनियम, 1927 (1927 का 17) की धारा 2 के खंड (ग) के अनुसरण में केन्द्रीय सरकार एतद्वारा उक्त अधिनियम के प्रयोजनों के लिए साधो जार्ज दीपघर को सामान्य दीपघर घोषित करती है।

[क्र० सं० 27 डी० (1) 78]
एस० रामचन्द्र राय, अवर सचिव

New Delhi, the 4th February, 1978

S.O. 452.—In pursuance of Clause (c) of section 2 of the Lighthouse Act 1927 (17 of 1927) the Central Government hereby declares Sao George Lighthouse to be a general Lighthouse for the purposes of the said Act.

[F. No. 27D(1)78]
S. R. RAO, Under Secy.

निर्माण और आवास मन्त्रालय

नई दिल्ली, 8 फरवरी, 1978

क्र. आ. 453.—दिल्ली विकास अधिनियम, 1957 (1957 का 61) की धारा 3 की उपधारा (3) के खण्ड (छ) के साथ पठित उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्माण और

आवास मन्त्रालय के दिनांक 15 सितम्बर, 1977 की अधिसूचना संख्या के-11011(47)/77-यू.डी. 1(बी) के अधिकरण में केन्द्रीय सरकार एतद्वारा निर्माण और आवास मन्त्रालय के संयुक्त सचिव श्री के. सी. पाण्डेय को श्री आर. एम. अग्रवाल के स्थान पर दिल्ली विकास प्राधिकरण के सदस्य के रूप में नियुक्त करती है और भारत सरकार, स्वास्थ्य मन्त्रालय के दिनांक 30 दिसम्बर, 1957 की अधिसूचना संख्या 12-173/57-एल. एस. जी. में निम्नीलिखित और संशोधन करती है, नामतः :—

उक्त अधिसूचना की मद संख्या 9 में "श्री आर. एम. अग्रवाल" के इन्दरज के लिए निम्नीलिखित इन्दरज प्रतिस्थापित किया जाएगा :—

"श्री के. सी. पाण्डेय"

[संख्या के-11011/47/77-यू.डी. 1(बी)]
बृजेंद्र नाथ मुखर्जी, उप सचिव

MINISTRY OF WORKS AND HOUSING

New Delhi, the 8th February, 1978

S.O. 453.—In exercise of the powers conferred by sub-section (1) read with clause (g) of sub-section (3) of Section 3 of the Delhi Development Act, 1957 (61 of 1957) and in supersession of the Ministry of Works & Housing Notification No. K-11011/47/77-UD.I(B) dated the 15th September, 1977 the Central Government hereby appoints Shri K. C. Pandeya, Joint Secretary, Ministry of Works and Housing as a Member of the Delhi Development Authority in place of Shri R. M. Agrawal, and makes the following further amendment in the Notification of the Government of India in the Ministry of Health No. 12-173/57-LSG dated the 30th December, 1957, namely :—

In the said Notification, in the item 9, for the entry "Shri R. M. Agrawal" the following entry shall be substituted, namely :—

"Shri K. C. Pandeya".

[No. K-11011/47/77-UD. I(B)]
B. N. MUKHERJEE, Dy. Secy.

संचार मंत्रालय

(डाक तार बोर्ड)

नई दिल्ली, 4 फरवरी, 1978

क्र० आ० 454.—राष्ट्रपति केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियम, 1965 के नियम 34 के साथ पठित नियम 9 के उप-नियम (2), नियम 12 के उप-नियम (2) के खण्ड (ख) और नियम 24 के उप-नियम (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार, संचार मंत्रालय (डाक और तार) की अधिसूचना संख्या सा० क्र० नि० 620 तारीख 28 फरवरी, 1957 में निम्नलिखित और संशोधन करते हैं, अर्थात् :—

(क) भाग 2 में साधारण केन्द्रीय सेवा वर्ग ग में शीप टेलीफोन जिता और उसके उपमण्डल कार्यालय और उसके नीचे की प्रशिक्षणियों के स्थान पर निम्नलिखित शीप और प्रशिक्षणियों रखी जायेंगी, अर्थात् :—

1	2	3	4	5
"उच्चस्तरीय दूरसंचार प्रशिक्षण केन्द्र और उसके कार्य क्षेत्र के अन्तर्गत के अन्य कार्यालय कार्यालय अधीक्षक				
	महाप्रबन्धक	महाप्रबन्धक	सभी	सदस्य (प्रशासन), (डाक तार बोर्ड)
उच्चस्तर या निम्नस्तर चपन पदक्रम अथवा समान वेतनमान के कर्मचारी, जूनियर इंजीनियर, रिपीटर स्टेशन सहायक, आटो एक्सचेंज सहायक, वायरलेस अपरेटर, चुनाव पदक्रम इंप्रूवमेंट	महाप्रबन्धक, निदेशक	महाप्रबन्धक निदेशक	(i) से (iv) तक सभी	महाप्रबन्धक
		मंडल इंजीनियर मुख्य लेखा अधिकारी	(i) से (iv)	महाप्रबन्धक निदेशक
समयमान वर्क दूरसंचार लेखा क्लर्क, टेलीफोन अपरेटर इंप्रूवमेंट, कैरोप्रिटर, तकनीशियन, सारी इन्डियन मोटर इन्डियन, इंजन इन्डियन	मण्डल इंजीनियर मुख्य लेखा अधिकारी	मंडल इंजीनियर, मुख्य लेखा अधिकारी तार इंजीनियरी सेवा वर्ग 'ख' के अधिकारी, भारतीय लेखा तथा वित्त सेवा वर्ग 'ख' के अधिकारी	सभी (i) से (iv)	मंडल इंजीनियर मुख्य लेखा अधिकारी

(ख) “भाग 3 साधारण केन्द्रीय सेवा वर्ग ख”, में शीर्षक ‘टेलीफोन जिला तथा टेलीफोन जिले के उपमण्डल’, और उसके नीचे की प्रविष्टियों के स्थान पर निम्नलिखित शीर्षक और प्रविष्टियाँ रखी जायेगी, अर्थात् :—

1	2	3	4	5
‘महा प्रबन्धक, उच्चस्तरीय वृत्तसंचार प्रशिक्षण केन्द्र और उसके कार्य क्षेत्र के अन्तर्गत के अन्य कार्यालय सभी पद	तार इंजीनियरी सेवा वर्ग ‘ख’ के अधिकारी भारतीय लेखा तथा वित्त सेवा वर्ग ‘ख’ के अधिकारी	सभी तार इंजीनियरी सेवा वर्ग ‘ख’ के अधिकारी, भारतीय लेखा तथा वित्त सेवा वर्ग ‘ख’ के अधिकारी	सभी	तार इंजीनियरी सेवा वर्ग ‘क’ के अधिकारी, भारतीय लेखा तथा वित्त वर्ग क के अधिकारी

[सं० 154-3/77-अनुशासन-II]

पी० के० मुखर्जी, सहायक महानिदेशक (अनुशासन)

MINISTRY OF COMMUNICATIONS

(P & T Board)

New Delhi, the 4th February, 1978

S.O. 454.—In exercise of the powers conferred by sub-rule (2) of rule 9, clause (b) of sub-rule (2) of rule 12, and sub-rule (1) of rule 24, read with rule 34, of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the President hereby makes the following further amendments in the notification of the Government of India in the Ministry of Communications (Posts and Telegraphs) No. S.R.O. 620 dated the 28th February, 1957, namely :—

In the Schedule to the said notification—

(a) in “Part-II—General Central Service, Group C”, after the heading “Telephone Districts and Sub Divisions of Telephone Districts” and the entries thereunder, the following heading and entries shall be inserted, namely :—

1	2	3	4	5
“Office of the General Manager, Advanced Level Telecommunications Training Centre and other Offices under his jurisdiction. Office Superintendent	General Manager	General Manager.	All	Member (Administration) Posts and Telegraphs Board General Manager.
		Deputy General Manager Director.	(i) to (iv)	
Staff in higher and lower selection grade or on identical scale of pay, Junior Engineer, Repeater Station Assistant, Auto Exchange Assistant, Wireless Operator Selection Grade, Draftsman	Deputy General Manager; Director	Deputy General Manager, Director Divisional Engineer; Chief Accounts Officer.	All (i) to (iv)	General Manager. Deputy General Manager; Director.
Time-Scale Clerk, Telecommunications Accounts Clerk, Telephone Operator, Draftsman, Ferro-printer, Technician Lorry Driver, Motor Driver, Engine Driver.	Divisional Engineer; Chief Accounts Officer	Divisional Engineer; All Chief Accounts Officer		Deputy General Manager; Director
		Officer of Telegraph Engineering service, Group B; Officer of Indian Posts and Telegraphs Accounts and Finance Service	(i) to (iv)	Divisional Engineer; Chief Accounts Officer.”

Group B.

(b) in “Part III—General Central Service, Group D”, after the heading “Telephone Districts and Sub-Divisions of Telephone Districts” and the entries thereunder, the following heading and entries shall be inserted, namely :—

1	2	3	4	5
“Office of the General Manager, Advanced Level Telecommunications Training Centre and other Offices under his jurisdiction. All posts	Officer of Telegraph Engineering Service Group B; Officer of Indian Posts and Telegraphs Accounts and Finance Service Group B.	Officer of Telegraph Engineering Service Group B; Officer of Indian post and Telegraphs accounts and Finance service, Group B.	All	Officer of Telegraph Engineering Service, Group A; Officer of Indian posts and Telegraphs Accounts and Finance service Group A.”

[No. 154-3/77-Disc. II]

P. K. MUKHERJEE, Asstt. Director General (Disc)].

(इक-तार बोर्ड)

नई दिल्ली, 7 फरवरी, 1978

का० आ० 455—का० आ० संख्या 627, दिनांक 8 मार्च, 1960 द्वारा लागू किए गए भारतीय तार नियम, 1951 के नियम 434 के खंड III के पैरा (क) के अनुसार इक-तार महानिदेशक ने उल्लाल टेलीफोन केन्द्र में दिनांक 1-3-78 से प्रभावित दर प्रणाली लागू करने का निश्चय किया है।

[संख्या 5-6/78-पी० एच० बी]

प्रा० ना० कोल, निदेशक फोन्स (ई)

(P & T Board)

New Delhi, the 7th February, 1978

S.O. 455.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General Posts and Telegraphs, hereby specified the 1-3-1978 as the date on which the Measured Rate System will be introduced in Ullal Telephone Exchange, Karnataka Circle.

[No. 5-6/78-PHB]

P. N. KAUL, Director Phones (E)

पूरीत और पुनर्वासि मंत्रालय

(पुनर्वासि विभाग)

नई दिल्ली, 30 जनवरी, 1978

का०आ० 456.—निष्क्रान्त सम्पत्ति प्रशासन अधिनियम, 1950 (1950 का. 31) की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार इसके द्वारा, इस विभाग में सहायक बन्दोबस्त आयुक्त के रूप में कार्य कर रहे श्री एम० पी० मिश्र को उक्त अधिनियम द्वारा या उसके अधीन अपर अभिरक्षक के कार्यों का निष्पादन करने हेतु, उन राज्यों के लिए जिनमें उक्त अधिनियम लागू होता है, अपर अभिरक्षक, निष्क्रान्त सम्पत्ति के रूप में तत्काल प्रभाव से नियुक्त करती है।

[सं० 1(26)/विशेष सेल/77-एस० एस०-II]

दीना नाथ असीजा, संयुक्त निदेशक

MINISTRY OF SUPPLY AND REHABILITATION

(Department of Rehabilitation)

New Delhi, the 30th January, 1978

S.O. 456.—In exercise of the powers conferred by Sub-Section (1) of Section 6 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoints Shri M. P. Misra, an officer working in this Department as Assistant Settlement Commissioner, as Additional Custodian of Evacuee Property for the States to which the aforesaid Act applies for the purpose of discharging the duties imposed on such Additional Custodian by or under the said Act with immediate effect.

[No. 1(26)/Spl. Cell/77-SS. II]

D. N. ASIJA, Jt. Director

नई दिल्ली, 31 जनवरी, 1978

का०आ० 457.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वासि) अधिनियम, 1954 (1954 का 44) की धारा 34 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य बन्दोबस्त आयुक्त इसके द्वारा, भारत सरकार, पुनर्वासि विभाग की समसंख्यक अधिसूचना दिनांक 3 जनवरी, 1978 द्वारा बन्दोबस्त आयुक्त के रूप में नियुक्त जिला

श्री गंगानगर (राजस्थान) के कलक्टर को, उक्त अधिनियम की धारा 23 और 24 के अन्तर्गत राजस्थान राज्य में अर्जित निष्क्रान्त सम्पत्तियों/कृषि भूमियों/दुकानों तथा रिक्त स्थानों, जो मुद्रावजा पूल का भाग है, के बारे में उक्त धाराओं के अधीन प्रावण्यक आदेश पारित करने के लिए अपनी शक्तियां सौंपता हूँ।

[सं० 1(2)/विशेष सेल/78-बन्दोबस्त-II]

श० चक्रवर्ती, मुख्य बन्दोबस्त आयुक्त

New Delhi, the 31st January, 1978

S.O. 457.—In exercise of the powers conferred by Sub-Section (2) of Section 34 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954) the Chief Settlement Commissioner hereby delegates to the Collector, Sriganganagar District (Rajasthan) appointed as Settlement Commissioner vide Government of India, Department of Rehabilitation Notification of even number dated the 31st January, 1978 his powers under Sections 23 and 24 of the said Act for the purpose of passing necessary orders under these Sections in respect of the acquired evacuee properties/agricultural lands/shops and vacant sites forming part of the Compensation Pool in the State of Rajasthan.

[No. 1(2)/Spl. Cell/78-SS.II]

J. CHAKRABARTY, Chief Settlement Commissioner

श्रम मंत्रालय

प्रादेश

नई दिल्ली, 26 दिसम्बर, 1977

का०आ० 458.—केन्द्रीय सरकार की राय है कि इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषय के बारे में भारतीय खाद्य निगम, उड़ीसा क्षेत्र के प्रबंध संज्ञ से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच एक औद्योगिक विवाद विद्यमान है;

और केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिए निर्दिष्ट करना वांछनीय समझती है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7क और धारा 10 की उपधारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी बी० के० बेहेरा होंगे, जिनका मुख्यालय भुवनेश्वर में होगा और उक्त विवाद को उक्त औद्योगिक अधिकरण को न्यायनिर्णयन के लिए निर्दिष्ट करती है।

अनुसूची

क्या भारतीय खाद्य निगम के प्रबन्धतन्त्र की उन श्रमिकों को, जिनके नाम नीचे उपाबन्ध में दिए गए हैं; खाद्य मोदाम डिपो, जगन्नाथपुर में नौकरी देने से इन्कार करने की कार्यवाही न्यायोचित है। यदि नहीं, तो ये कर्मकार किस अनुतोम के हकदार हैं?

उपाबन्ध

गैंग नं० 1	गैंग नं० 2
1	2
1. श्री बी० चनीया रेड्डी सरदार सुपर बाजार	1. श्री जी राजेन्द्र सरदार रेड्डी सुपर बाजार
2. श्री वामा सेठी मण्डल	2. श्री शंकर मण्डल
3. श्री मुत्तालू रेड्डी हैडलिंग/लेबर	3. श्री नन्दा पात्रा हैडलिंग/लेबर
4. श्री जगन्नाथ रेड्डी "	4. श्री बेनिया नायक "
5. श्री प्रार० मासनु रेड्डी	5. श्री बया सेठी "

1	2
6. श्री जी पुत्रशा हैडलिंग/लेबर रेड्डी	6. श्री जी० तुलसी हैडलिंग/लेबर रेड्डी
7. श्री मोहन नाहक	7. श्री परमा सेठी
8. श्री चरण दास	8. श्री बैतारी
9. श्री बैबारी बेहरा	9. श्री सर्वेण्वर
10. श्री अरखित बेहरा	10. श्री दसरथी
11. श्री रघु महाकुड	11. श्री बैधर
12. श्री काशीनाथ बेहरा	12. श्री क्यानिधि
13. श्री हरी मुदुली	13. श्री भाषकर
14. श्री राधेश्याम	14. श्री हरिहर साहु
15. श्री नेत्रानन्दा साहु	15. श्री पारिखित
गैंग नं० 3	गैंग नं० 4

1	2
1. श्री गोरक्ष्याम थिस्वाल ऐलियास निरंजन बिस्वाल सरदार	1. श्री अरखित सेठी सरदार
2. श्री धनु बेहरा मण्डल	2. श्री दामोदर बास मण्डल
3. श्री दण्डापानी हैडलिंग/सेठी लेबर	3. श्री वी० प्रपन्ना रेड्डी हैडलिंग/लेबर
4. श्री नारायण सेठी	4. श्री उदय नाहक
5. श्री सुरेन्द्र सेठी (i)	5. श्री बिजुली नायक

1	2
6. श्री मणि नायक हैडलिंग/लेबर	6. श्री पतिराम हैडलिंग/लेबर
7. श्री बंछा बेहरा	7. श्री भवान्तर सेठी
8. श्री जूरिया बेहरा	8. श्री सुरेन्द्र सेठी (ii)
9. श्री पावान चरण साहु	9. श्री कैलाश
10. श्री भोली साहु	10. श्री बीरवार नायक
11. श्री त्रिनाथ सेठी	11. श्री दोला गोविन्द
12. श्री बन्छा मुदुली	12. श्री राजेन्द्र जैना
13. श्री घना बेहरा	13. श्री माधव
14. श्री त्रिनाथ लेंका	14. श्री वनमाली साहु

अनुसंधानिक कामगार

1. श्री दिवाकर पाण्डा
2. श्री डी० राजेन्द्र रेड्डी
3. श्री बनबेहारी ऐलियास गुर्गा श्री० पाण्डा
4. श्रीमती श्री० पापम्मा
5. श्रीमती आर० सारमा

[संख्या एल०-42011(23)/76-डी०-2 (बी०)]
हरबन्स बहादुर, डैस्क अधिकारी

MINISTRY OF LABOUR

ORDER

New Delhi, the 26th December, 1977

S.O. 458—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of the Food Corporation of India, Orissa Region and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication.

Now, therefore, in exercise of the powers conferred by section 7A, and clause (d) of sub-section (1) of section 10, of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri B.K. Behera shall be the Presiding Officer, with headquarters at Bhubaneswar and refers the said dispute for adjudication to the said Tribunal.

SCHEDULE

Whether the action of the management of the Food Corporation of India in refusing employment in the Food Storage Depot, Jagannathpur, to the workmen whose names are given in the Annexure below is justified ? If not, to what relief are these workmen entitled ?

ANNEXURE

Gang. No. 1		Gang. No. 2	
1. Shri D. Cheniya Reddy	Sardar	1. Shri G. Rajendra Raddy	Sardar
2. „ Dama Sethi.	Supervisor	2. „ Sankar	Mondal
3. „ Sr. Mutyalu Raddy	Mondal	3. „ Nanda Patra	H/Labour
4. „ Sr. Jagannath Raddy	H/Labour	4. „ Benia Naik	„
5. „ R. Masanu Raddy	„	5. „ Daya Sethi	„
6. „ G. Punnya Raddy	„	6. „ G. Tulsi Raddy	„
7. „ Mohan Naik	„	7. „ Parama Sethi	„
8. „ Charana Dass	„	8. „ Daitari	„
9. „ Raibari Behara	„	9. „ Sarbeswar	„
10. „ Arakhit Behara	„	10. „ Dasarathi	„
11. „ Raghu Mahakud	„	11. „ Baidhar	„
12. „ Kasinath Behera	„	12. „ Dayanidhi	„
13. „ Hari Muduli	„	13. „ Bhaskar	„
14. „ Radcheshyam	„	14. „ Harihar Sahoo	„
15. „ Netrananda Sahu	„	15. „ Parikhit	„

Gang. No. 3		Gang. No. 4	
1. Sri Gourshyam Biswal—alias Niranjana Biswal	Sardar	1. Sri Arakhit Sethi	Sardar
2. Sri Dhanu Behera	Mondal	2. Sri Damodar Das	Mondal
3. Sri Dandapani Sethi	H/Labour	3. Sri B. Apana Raddy	H/Labour
4. Sri Narayan Sethi	"	4. Sri Udaya Nahak	"
5. Sri Surendra Sethi (i)	"	5. Sri Bijuli Naik	"
6. Sri Mani Nayak	"	6. Sri Pati Ram	"
7. Sri Banchha Behera	"	7. Sri Mahantar Sethi	"
8. Sri Juria Behera	"	8. Sri Surendra Sethi (ii)	"
9. Sri Padan Charan Sahoo	"	9. Sri Kailash	"
10. Sri Bholi Sahu	"	10. Sri Birbar Nayak	"
11. Sri Trinath Sethi	"	11. Sri Dola Gobind	"
12. Sri Banchha Muduli	"	12. Sri Rajendra Jena	"
13. Sri Dhana Behara	"	13. Sri Madhab	"
14. Sri Trinath Lenka	"	14. Sri Banamali Sahoo	"
Ancillary Workers			
1. Sri Dibakar Panda		4. Smt. B. Papamma.	
2. Sri D. Rajendra Raddy		5. Smt. R. Saramma.	
3. Sri Banbhari alias Durga Ch. Panda.			

[No. L-42011(23)/76-D.II(B.)]

HARBANS BAHADUR, Desk Officer

नई दिल्ली, 21 जनवरी, 1978

आदेश

का० आ० 459.—यतः केन्द्रीय सरकार की राय है कि इससे उपावृद्ध अनुसूची में विनिर्दिष्ट विषयों के बारे में भारतीय जीवन बीमा निगम के प्रबन्धतन्त्र से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच एक औद्योगिक विवाद विद्यमान है;

और यतः केन्द्रीय सरकार उक्त विवाद को न्यायनिर्णयन के लिये, निर्दिष्ट करना वांछनीय समझती है;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 7क और धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा एक औद्योगिक अधिकरण गठित करती है जिसके पीठासीन अधिकारी श्री के० सेलवारतनम होंगे, जिनका मुख्यालय मद्रास में होगा और उक्त विवाद को उक्त औद्योगिक अधिकरण को न्यायनिर्णयन के लिए निर्दिष्ट करती है।

अनुसूची

“यथा भारतीय जीवन बीमा निगम के प्रबन्धतन्त्र का (i) श्री गणपति, सहायक, मंडल कार्यालय मद्रास-11 और (ii) श्री अय्यम्पेरुमल, सहायक ब्रांच कार्यालय, तुत्तीकोटिन, को विशेष वेतन वृद्धि देने से इनकार करना न्यायोचित है? यदि नहीं, तो कर्मकार किस अनुतोष के हकदार हैं?”

[संख्या एल०-17012/2/77-डी०-4(ए०)]

नन्द लाल, डेस्क अधिकारी

New Delhi, the 21st January, 1978

ORDER

S.O. 459.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Life Insurance Corporation of India and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri K. Selvaratnam shall be the Presiding Officer with headquarters at Madras and refers the said dispute for adjudication to the said Tribunal.

260 GI/77—9

SCHEDULE

Whether the management of LIC of India are justified in denying the grant of special increments to (i) Shri Ganapathy, Assistant, Divisional Office, Madurai-II and (ii) Shri Iyyemperumal, Assistant, Branch Office, Tuticorin? If not, to what relief are the concerned workmen entitled?

[No. L-17012(2)/77-D.IV(A)]

NAND LAL, Desk Officer

नई दिल्ली, 30 जनवरी, 1978

का० आ० 460.—केन्द्रीय सरकार की यह राय है कि कि रोजगार-हट माइन्स में रोजगार की बाबत मजदूरी की न्यूनतम दरें, न्यूनतम मजदूरी अधिनियम, 1948 (1948 का 11) के अधीन नियत की जानी चाहिए;

अतः, अब, उक्त अधिनियम की धारा 27 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त रोजगार को उक्त अधिनियम की अनुसूची के भाग 1 में बढ़ाने के अपने आशय की सूचना देती है।

इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से उक्त बढ़ाये जाने की बाबत चार मास की अवधि की समाप्ति पर या उससे पूर्व किसी भी व्यक्ति से प्राप्त आक्षेपों या सुझावों पर केन्द्रीय सरकार द्वारा विचार किया जाएगा।

[संख्या एस० 32017(1)/74-डब्ल्यू०सी०(एन०डब्ल्यू०)]

New Delhi, the 30th January, 1978

S.O. 460.—Whereas the Central Government is of opinion that the minimum rates of wages should be fixed under the Minimum Wages Act, 1948 (11 of 1948) in respect of employment in Redoxide Mines.

Now, therefore, in exercise of the powers conferred by section 27 of the said Act, the Central Government hereby gives notice of its intention to add the said employment to Part I of the Schedule to the said Act.

Any suggestions or objections which may be received from any person in respect of the said addition on or before the expiry of a period of four months from the date of publication of this notification in the Official Gazette, will be considered by the Central Government.

[No. S. 32017(1)/74-WC(MW)]

का० आ० 461.—केन्द्रीय सरकार की राय है कि सैंटेराइट खानों के नियोजकों की बाबत न्यूनतम मजदूरी अधिनियम, 1948 (1948 का 11) के अधीन मजदूरी की न्यूनतम दर नियत की जानी चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 27 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त नियोजन को, उक्त अधिनियम की अनुसूची के भाग 1 में जोड़ने के अपने आशय की सूचना देती है।

ऐसे किन्हीं आक्षेपों और सुझावों पर, जो उक्त जोड़े जाने की बाबत किसी व्यक्ति से, राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से चार मास की अवधि के अवसान की या उससे पूर्व प्राप्त हो, केन्द्रीय सरकार विचार करेगी।

[सं० 32017(1)/77-इल्यू०सी० (एम०डब्ल्यू०)]

हंस राज छाबड़ा, उप सचिव

S.O. 461.—Whereas the Central Government is of opinion that the minimum rates of wages should be fixed under the Minimum Wages Act, 1948 (11 of 1948) in respect of the employments in Laterite Mines.

Now, therefore, in exercise of the powers conferred by section 27 of the said Act, the Central Government hereby gives notice of its intention to add the said employment to Part I of the Schedule to the said Act.

Any suggestions and objections which may be received from any person in respect of the said addition on or before the expiry of a period of four months from the date of publication of this notification in the Official Gazette, will be considered by the Central Government.

[No. S-32017(1)/77-WC(MW)]

HANS RAJ CHHABRA, Dy. Secy.

आदेश

का० आ० 462.—इससे उपाबद्ध अनुसूची में विनिर्दिष्ट विषयों की बाबत देना बैंक, मुम्बई से संबंधित नियोजकों और उनके कर्मचारों के बीच औद्योगिक विवाद केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के समक्ष लम्बित है;

और देना बैंक कर्मकार संगठन, मुम्बई, के प्रतिनिधि कर्मचारों से, विवादग्रस्त कार्यवाहियों के उक्त औद्योगिक अधिकरण मुम्बई से औद्योगिक अधिकरण सं० 2, मुम्बई को अन्तर्ण करने के लिए, ऐसी प्रस्तावना प्राप्त हुई है, जिस पर देना बैंक के प्रबन्धकों और देना बैंक कर्मकार संगठन, मुम्बई को कोई आक्षेप नहीं है;

अतः, अब, केन्द्रीय सरकार, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 33-ख की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त विवाद से संबंधित कार्यवाहियों को औद्योगिक अधिकरण, मुम्बई से वापस लेती है और उसे उक्त अधिनियम की धारा 7-क के अधीन गठित औद्योगिक अधिकरण सं० 2, मुम्बई को, जिसका मुख्यालय मुम्बई में है, अन्तर्गत करती है तथा यह निदेश देती है कि उक्त औद्योगिक अधिकरण, मुम्बई सं० 2 उक्त कार्यवाहियों पर उसी प्रथम से कार्यवाही करेगा, जिस पर वे उसे अन्तर्गत की गई है और विधि के अनुसार उनका निपटान करेगा।

अनुसूची

विवाद सं०	आदेश सं०	विवाद के पक्षकार
75 का सी जी आई टी 22	एल-12025/8/75-डी०-II ए०, तारीख 22-4-75	देना बैंक, प्रधान कार्यालय मुम्बई के प्रबन्धक और देना बैंक कर्मकार संगठन, मुम्बई के प्रतिनिधि उनके कर्मकार।

विवादग्रस्त विषय

“क्या देना बैंक, प्रधान कार्यालय, मुम्बई, के प्रबन्धकों की, श्री बी० एल० नामक, रोकड़िया की, उनकी थाना शाखा से उसके

स्थानान्तरित होने के परिणामस्वरूप 14 गितम्बर, 1974 से उनकी वशिन्द शाखा में नियोजित करने से इनकार करने और मत्पश्चात् उनके प्रादेशिक कार्यालय से कर्मकार द्वारा स्थानान्तरण शापन को ले लेने के लिए जो कि उसके नए मुख्यालय पर कार्य ग्रहण करने के लिए उसे अनुज्ञात देने की पूर्व शर्त है, हट करने की कार्यवाहियाँ वैध और न्यायोचित हैं? यदि नहीं तो, उक्त कर्मकार किम अनुपाय का हक्दार हैं?”

[सं० एल-12025/8/75-डी-II-ए]

जगदीश प्रसाद, जवर सचिव

ORDER

S.O. 462.—Whereas the industrial dispute between the employers in relation to Dena Bank, Bombay and their workmen in respect of matters specified in the Schedule hereto annexed is pending before the Central Government Industrial Tribunal, Bombay,

And whereas a proposal has been received from the workmen represented by the Dena Bank Workers' Organisation, Bombay for transfer of the proceedings in the dispute from the said Industrial Tribunal Bombay to the Industrial Tribunal No. II, Bombay to which the management Dena Bank and Dena Bank Workers' Organisation, Bombay have no objection;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 33-B of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby withdraws the proceedings in relation to the said dispute from the Industrial Tribunal, Bombay and transfers the same to the Industrial Tribunal No. II, Bombay, with headquarters at Bombay constituted under section 7A of the said Act and directs that the said Industrial Tribunal Bombay No. II shall proceed with the same proceedings from the stage at which they are transferred to it and dispose of the same according to Law.

SCHEDULE

Dispute No.	Order No.	Parties to the dispute
CGIT 22 of 75	L-12025/8/75-D. II.A. dt. 22-4-75	Management of the Dena Bank, Head Office Bombay and their workmen represented by the Dena Bank workers organisation, Bombay.

MATTERS IN DISPUTE

“Whether the actions of the management of Dena Bank, Head Office, Bombay, in refusing employment to Shri B. L. Nayak, Cashier in their Vashind Branch, from the 14th September, 1974 consequent upon his transfer from their Thana Branch and subsequently insisting on collection of transfer memo by the workman from their Regional Office, this being the pre-condition to allow him to resume work at his new Headquarters, are legal and justified. If not to what relief is the said workman entitled?”

[No. L-12025/8/75-D. II.A]

JAGDISH PRASAD, Under Secy.

नई दिल्ली, 31 जनवरी, 1978

का० आ० 463.—अतः केन्द्रीय सरकार को यह प्रतीत होता है कि मैमर्स नामिक मेटल एण्ड इंजीनियरिंग वर्क्स, प्लाट सं० 17-सी, गवर्नमेन्ट इन्डस्ट्रियल एस्टेट कम्प्लेक्स (वेस्ट) मुम्बई-67, नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों को बहुमंशुला इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए;

अतः अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

यह अधिसूचना 31 अगस्त, 1976 को प्रवृत्त हुई समझी जाएगी।

[सं० एम० 35018(95)/77-पी०एफ०-II]

New Delhi, the 31st January, 1978

S.O. 463.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Nasik Metal and Engineering Works, Plot No. 17-C, Government Industrial Estate, Kandivli (West) Bombay-67 have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty first day of August, 1976.

[No. S. 35018/95/77-PF-II]

का० आ० 464.—केन्द्रीय सरकार कर्मचारी भविष्य निधि और प्रकोण उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 6 के प्रथम परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सम्बद्ध विषय में आवश्यक जांच करने के पश्चात् 1 सितम्बर, 1976 से मैसेर्स अहमदाबाद इन्डस्ट्रीज एण्ड इन्वेस्टमेंट (प्राइवेट) लिमिटेड, सर्वोदय, इन्डस्ट्रियल एस्टेट, महाकाशी केम रोड, चाकला, मुम्बई-69, जिसमें (1) वासुदेव मेशन्स, दिनशायाच्चा रोड, मुम्बई और (2) 79, वस्तेपुर, अम्बेवाडी आफिस सुरेन्द्र मंगलदास रोड, अहमदाबाद-15 स्थित उसका शाखाएं भी सम्मिलित हैं, नामक स्थापन को उक्त परन्तुक के प्रयोजनों के लिए विनिर्दिष्ट करती है।

[सं० एम० 35018(97)/77-पी०एफ०-II(ii)]

S.O. 464.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies with effect from the first day of September, 1976 the establishment known as Messrs Ahmedabad Industries and Investment (Private) Limited Sarvodaya Industrial Estate, Mahakali Caves Road, Chakala, Bombay-69 including its branches at (1) Vaswani Mansion, Dinshaw Vachha Road, Bombay and (2) 79, Vastrepur, Ambewadi, Office Surendra Mangaldas Road, Ahmedabad-15, for the purposes of the said proviso.

[No. S. 35018/97/77-PF-II(ii)]

का० आ० 465.—अतः केन्द्रीय सरकार को यह प्रतीत होता है कि मैसेर्स डाल्टन प्रेस, 5-9-88, पब्लिक गार्डन रोड, हैदराबाद, नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकोण उपबन्ध अधिनियम 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए।

अतः अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

यह अधिसूचना 1 अगस्त, 1976 को प्रवृत्त हुई समझी जाएगी।

[सं० एम० 35019(408)/77-पी०एफ०-II]

S.O. 465.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Dolton Press, 5-9-88, Public Garden Road, Hyderabad, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of April, 1976.

[No. S. 35019(408)/77-PF-II]

का० आ० 466.—अतः केन्द्रीय सरकार को यह प्रतीत होता है कि मैसेर्स शैलेन्द्र एन्टरप्राइजेज, 6, दयावसान्द्र इन्डस्ट्रियल एरिया, व्हाइटफील्ड रोड, महादेवपुर पोस्ट, बंगलोर-48 नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकोण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए;

अतः अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

यह अधिसूचना 1 सितम्बर, 1977 को प्रवृत्त हुई समझी जाएगी।

[सं० एम० 35019(410)/77-पी०एफ०-II(i)]

S.O. 466.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Shailendra Enterprises, 6, Dyavasandra Industrial Area, Whitefield Road, Mahadevapura Post, Bangalore-48, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of September, 1977.

[No. S. 35019(410)/77-PF-II(i)]

का० आ० 467.—केन्द्रीय सरकार कर्मचारी भविष्य निधि और प्रकोण उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 6 के प्रथम परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सम्बद्ध विषय में आवश्यक जांच करने के पश्चात् 1 सितम्बर, 1977 से मैसेर्स शैलेन्द्र एन्टरप्राइजेज, 6 दयावसान्द्र इन्डस्ट्रियल एरिया, व्हाइटफील्ड रोड, महादेवपुर पोस्ट, बंगलोर-48 नामक स्थापन को उक्त परन्तुक के प्रयोजनों के लिए विनिर्दिष्ट करती है।

[सं० एम० 35019(410)/77-पी०एफ०-II(ii)]

S.O. 467.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies with effect from the first day of September, 1977, the establishment known as Messrs Shailendra Enterprises, 6, Dyavasandra Industrial Area, Whitefield Road, Mahadevapura, Post, Bangalore-48, for the purposes of the said proviso.

[No. S. 35019(410)/77-P. F. II(ii)]

क्रा० आ० 468.—केन्द्रीय सरकार कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 6 के प्रथम परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सम्बद्ध विषय में आवश्यक जांच करने के पश्चात् 1 मार्च, 1977 से मसर्स दि रामकृष्ण सीमेंट्स को-ऑपरेटिव स्टोर्स लिमिटेड, मछेला गुंटूर जिला, नामक स्थापन को उक्त परन्तुक के प्रयोजनों के लिए विनिर्दिष्ट करती है।

[सं० एस०-35019(418)/77-पी०एफ०II]

S.O. 468.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies with effect from the 1st day of March, 1977 the establishment known as Messrs The Ramakrishna Cements Cooperation Stores Limited, Macherla, Guntur District for the purposes of the said proviso.

[No. S. 350/418/77-PF-II(ii)]

क्रा० आ० 469.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि मसर्स रामानट्टुकरा कीर व्यवसाय को-ऑपरेटिव सोसाइटी लिमिटेड, सं० 20-डी०, रामानट्टुकरा डाकघर, कालीकट, जिसमें फरक कालेज डाकघर स्थित उसकी शाखा सम्मिलित है, नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए;

अतः अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

यह अधिसूचना 31 जुलाई, 1977 को प्रवृत्त हुई समझी जाएगी।

[सं० एस० 35019(426)/77-पी०एफ०II]

S.O. 469.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Ramanattukara Kesheera Vyavasaya Co-operative Society Limited, No. 20-D, Ramanattukara Post Office, Calicut, including its branch at Ferook College Post Office, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty-first day of July, 1977.

[No. S. 35019/426/77-PF. II]

क्रा० आ० 470.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि मसर्स डी० ए० एन्टरप्राइजेज, 100-डब्ल्यू० जी० सी० रोड, (ऊपर) तुतिकोरिन-2, नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए;

अतः अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

यह अधिसूचना 1 जनवरी, 1977 को प्रवृत्त हुई समझी जाएगी।

[सं० एस० 35019(435)/77-पी० एफ० II]

S.O. 470.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs D.A. Enterprises, 100-W.G.C. Road (Upstairs), Tuticorin-2, have agreed that the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of January, 1977.

[No. S. 350/435/77-PF II]

क्रा० आ० 471.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि मसर्स श्री वल्ली टेक्स्टाइल्स, होसुर रोड, बंगलूर-29 नामक स्थापन से सम्बद्ध नियोजक और कर्मचारियों की बहुसंख्या इस बात पर सहमत हो गई है कि कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए ;

अतः अब, उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त अधिनियम के उपबन्ध उक्त स्थापन को लागू करती है।

यह अधिसूचना 1 अक्टूबर, 1977 को प्रवृत्त हुई समझी जाएगी।

[सं० एस० 35019 (443)/77-पी० एफ० II]

S.O. 471.—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as Messrs Sri Valli Textiles, Hosur Road, Bangalore-29, have agreed that the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the first day of October, 1977.

[No. S. 35019/443/77-PF. II]

क्रा० आ० 472.—केन्द्रीय सरकार कर्मचारी भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1952 (1952 का 19) की धारा 6 के प्रथम परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, सम्बद्ध विषय में आवश्यक जांच करने के पश्चात् 1 अक्टूबर, 1977 से मसर्स इलेक्ट्रोकार्बोनियम लिमिटेड, 78, विक्टोरिया रोड, बंगलूर-7, नामक स्थापन को उक्त परन्तुक के प्रयोजनों के लिए विनिर्दिष्ट करती है।

[सं० एस० 35019 (444)/77 पी० एफ० II (ii)]

S.O. 472.—In exercise of the powers conferred by the first proviso to section 6 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government, after making necessary enquiry into the matter, hereby specifies with effect from the first day of October, 1977 the establishment known as Messrs Electrocarbonium Limited, 78, Victoria Road, Bangalore-7, for the purposes of the said proviso.

[No. S. 35019(444)/77-PF. II(ii)]

नई दिल्ली, 3 फरवरी, 1978

का० आ० 473.—केन्द्रीय सरकार का समाधान हो गया है कि ओर हैडलिंग प्लान्ट साइट वर्कशॉप, विशाखापत्तनम पोर्ट ट्रस्ट, विशाखापत्तनम के कर्मचारियों को सारतः उसी प्रकार की प्रसुविधाएं अन्य रूप में प्राप्त हैं जैसी कि कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) के अधीन उपबन्धित हैं ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 90 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार, श्रम मंत्रालय की अधिसूचना संख्या का० आ० 2136 तारीख 3 जून, 1977 के क्रम में कर्मचारी राज्य बीमा निगम से परामर्श करने के पश्चात् ऊपर वर्णित कारखाने को उक्त अधिनियम के प्रवर्तन से 25 सितम्बर, 1976 से 24 सितम्बर, 1977 तक जिसमें यह दिन भी सम्मिलित है, एक वर्ष की और अवधि के लिए, छूट देती है ।

2. पूर्वोक्त छूट की शर्तें निम्नलिखित हैं, अर्थात् :—

(1) उक्त कारखाने का नियोजक, उस अवधि की बाबत जिसके दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था (जिसे इसमें इसके पश्चात् 'उक्त अवधि' कहा गया है), ऐसी विवरणियाँ, ऐसे प्ररूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी थीं ;

(2) निगम द्वारा उक्त अधिनियम की धारा 45 की उपधारा (1) के अधीन निवृत्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी,—

- (i) धारा 44 की उपधारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरणी की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; या
- (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाप्रवक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गए थे या नहीं; या
- (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिए गए उन फायदों को, जिसके प्रतिफलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकब में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
- (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान जब उक्त कारखाने, के संबंध में अधिनियम के उपबन्ध प्रवृत्त थे, ऐसे किन्हीं उपबन्धों में से किसी का अनुपालन किया गया था या नहीं;

निम्नलिखित कार्य करने के लिए सशक्त होगा :—

- (क) प्रधान या अव्यवहित नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; या
- (ख) ऐसे प्रधान या अव्यवहित नियोजक के अधिभोगाधीन किसी कारखाने, स्थापन, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजूरी के संदाय से संबंधित ऐसी लेखा बहियों और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दे, या उन्हें ऐसी जानकारी दे जिसे वे आवश्यक समझते हैं; या
- (ग) प्रधान या अव्यवहित नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति की जो ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में पाया जाए या ऐसे किसी व्यक्ति की जिसके बारे में उक्त निरीक्षक या अन्य पदधारी के पास

यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

- (घ) ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर लेखाबही या अन्य दस्तावेज की नकल तैयार करना या उससे उद्धरण लेना ।

व्यावसायिक स्थापन

इस मामले में पूर्वोक्ती प्रभाव से छूट देनी आवश्यक हो गयी है क्योंकि छूट की मंजूरी के लिए महानिदेशक, कर्मचारी राज्य बीमा निगम की सकारिफ वेर से प्राप्त हुई । तथापि, यह प्रमाणित किया जाता है कि कारखाना छूट का पात्र है । यह भी प्रमाणित किया जाता है कि पूर्वोक्ती प्रभाव से छूट देने से किसी के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा ।

[सं० एम० 38014/29/76-एच० आई०]

एम० एम० सहस्रनामन, उप सचिव

New Delhi, the 3rd February, 1978

S.O. 473.—Whereas the Central Government is satisfied that the employees of the Ore Handling Plant Site Workshop Visakhapatnam Port Trust, Visakhapatnam are otherwise in receipt of benefits substantially similar to the benefits provided under the Employees' State Insurance Act, 1948 (34 of 1948);

Now, therefore, in exercise of the powers conferred by section 90 of the said Act and in continuation of the notification of the Government of India in the Ministry of Labour No. S.O. 2136 dated the 3rd June, 1977, the Central Government after consultation with the Employees' State Insurance Corporation, hereby exempts the above mentioned factory from the operation of the said Act for a further period of one year with effect from the 25th September, 1976 upto and inclusive of the 24th September, 1977.

2. The above exemption is subject to the following conditions, namely :—

- (1) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in such form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (2) Any Inspector appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other Official of the Corporation authorised in this behalf shall, for the purposes of—
 - (i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period ; or
 - (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
 - (iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
 - (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory :

be empowered to—

- (a) required the principal or immediate employer to furnish to him such information as he may consider necessary; or
- (b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and

allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises, or any person whom the said Inspector or other official has reasonable cause to believe to have been an employee; or
- (d) make copies of or take extracts from, any register account book or other document maintained in such factory, establishment, office or other premises.

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case, as the recommendation of the Director General, Employees' State Insurance Corporation for the grant of exemption was received late. However, it is certified that the factory is eligible for exemption. It is also certified that the grant of exemption with retrospective effect will not affect the interest of anybody adversely.

[No. S. 38014/29/76-II]

S. S. SAHASRANAMAN, Dy. Secy.

नई दिल्ली, 1 फरवरी, 1978

का० आ० 474.—डेका थम (विनियमन और उत्पादन) केन्द्रीय नियम, 1971 के नियम 3 के साथ पठित डेका थम (विनियमन और उत्पादन) अधिनियम, 1970 (1970 का 37) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार श्री बी० के० खानुनाथन और श्री ए० जे० एस० चन्धन के स्थान पर क्रमशः श्री जगदीश लाल और श्री के० बी० राव को केन्द्रीय सलाहकार डेका थम बोर्ड के सदस्यों के रूप में मनोनीत करती है और भारत सरकार के थम मंत्रालय को अधिसूचना संख्या सा० का० 1890, दिनांक 18 मई, 1976 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में क्रमांक 5 और 16 तथा तत्संबंधी प्रविष्टियों के स्थान पर निम्नलिखित क्रमांक और तत्संबंधी प्रविष्टियाँ रखी जायेंगी, अर्थात्:—

"5. श्री जगदीश लाल,
निदेशक (वाणिज्य),
रेल मंत्रालय,
(रेलवे बोर्ड),
नई दिल्ली।

16. श्री के० बी० राव,
महासचिव,
फेडरेशन आफ़ आल इंडिया हिन्दुस्तान कन्स्ट्रक्शन वर्कर्स यूनियन,
9, सयीद अमीर अली एवेन्यू,
कलकत्ता-17।"

[सं० एल० 16025/36/74-एल० डब्ल्यू०]

के० डी० गांधी, अवर सचिव

New Delhi, the 1st February, 1978

S.O. 474.—In exercise of the powers conferred by section 3 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970) read with rule 3 of the Contract Labour (Regulation and Abolition) Central Rules, 1971, the Central Government hereby nominates Shri Jagdish Lal and Shri K. V. Rao as the members of the Central Advisory Contract Labour Board vice Shri V. K. Sthanunathan and Shri A. J. S. Chandran respectively, and makes the following amendments in the notification of Government of India in

the Ministry of Labour No. S. O. 1890, dated the 18th May, 1976 namely.

In the said notification for the serial numbers 5 and 16 and the entries relating thereto, the following serial numbers and the entries relating thereto shall respectively be substituted, namely:—

"5. Shri Jagdish Lal, Director (Commercial), Ministry of Railways, (Railway Board), New Delhi.

16. Shri K. V. Rao, General Secretary, Federation of All India Hindustan Construction Worker's Union, 9, Sayed Amir Ali Avenue, Calcutta-17."

[No. S-16025(36)/74-LW]

K. D. GANDHI, Under Secy.

New Delhi, the 31st January, 1978

S.O. 475.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial dispute between the employers in relation to the management of Phularitand Colliery of M/s. Bharat Coking Coal Limited, Post Office Kharkharee, District Dhanbad and their workmen, which was received by the Central Government on the 23rd January, 1978.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT NO. 3, DHANBAD

Reference No. 43 of 1977

PARTIES:

Employers in relation to the management of Phularitand Colliery of M/s. Bharat Coking Coal Ltd., P.O. Kharkharee, Dist. Dhanbad.

AND

Their workman represented by Colliery Mazdoor Sangh, Dhanbad.

APPEARANCES:

For Employers—Shri B. Joshi, Advocate.
For Workman—Shri S. Bose.

INDUSTRY : Coal

STATE : Bihar

Dhanbad, Dated the 12th January, 1978

AWARD

This is a reference U/S 10(1)(d) of the Industrial Disputes Act, 1947, by the Government of India, Ministry of Labour under Order No. L-20012/141/75/DIHA dated the 20th February, 1976. The schedule of reference is extracted below:—

SCHEDULE

"Whether the action of the management of Phularitand Colliery of M/s. Bharat Coking Coal Ltd., P.O. Kharkharee, Dist. Dhanbad in dismissing Shri Harendra Nath Kunwar, Trammer with effect from 23rd March, 1975 is justified? If not, to what relief the workman is entitled?"

2. There was a domestic enquiry and on the recommendation of the Enquiry Officer who found him guilty of the charges framed against him he was dismissed with effect from 23rd March 1975. A point was raised on behalf of the management if the enquiry was fair and proper. That matter was heard by me and by an order dated 6th of August, 1977. I came to hold that the enquiry was fair and proper, that the finding of the Enquiry Officer was not perverse and that the order of dismissal had been passed by a competent authority. Thus the only point for determination is U/S 11-A of the Industrial Disputes Act, 1947 and the scope is quite limited.

3. Having come to a conclusion that the finding of the Enquiry Officer is not perverse, the only thing that the Tribunal is competent to examine is whether the order of dis-

dismissal imposed upon the delinquent is shockingly disproportionate with the act of misconduct and which no reasonable person could impose. In this connection it is to be taken into account whether the order of dismissal is mala fide or is just to victimize the concerned workman.

4. In the written statement filed on his behalf it is said that repeatedly he along with other workmen had been requesting the management to regularise them as Tyndal and to pay the difference of wages between the rate of a Trammer and that of a Tyndal as they had worked continuously for two years as Tyndal without getting any wages for the same. It is said in this connection that this annoyed the management and false chargesheet was issued.

5. At the time of final hearing two petitions have been brought on record on behalf of the workman. They are Exts. W-1 dated 19-9-1974 and W-1/1 dated 24-11-1974. In both the petitions the same demand was made. There is no mention about them in the written statement and they were filed when the workman was being examined at the time of final hearing. Objection was, therefore taken on behalf of the management which was noted but I took the two papers on record to see how far they could help the delinquent.

6. As the position stands I find that they are not at all helpful to him and by no stretch of reasoning they can establish even remotely that because demand was made for back wages and proper categorisation, he was as a measure of victimisation involved in false charges. That defence is not now open to him, it having been established that the charges had been proved beyond all doubts in the domestic enquiry and the Enquiry Officer had given a reasonable finding about his guilt on the materials which were placed before him.

7. Therefore there is no reliable material on record to suggest that he has been victimised on account of his demand for back wages and re-categorisation. There is no other allegation of unfair labour practice or victimisation although in paragraph 12 it is said that the action of the management is a glaring instance of mala fide unfair labour practice and an act of victimisation. Weighty materials should have been necessary to hold with the workman on this point.

8. Allegation against him was that on 23-1-1975 he along with others abused and assaulted the Manager in his office. If there was his request for re-categorization and payment of back wages that was not a demand which could have affected the Manager in any way. As the position stands I am not finding any material to connect the alleged charge against him with his demand for re-categorization and payment of back wages.

9. In law a non-violent threat, a threat of violence, use of abusive language and assault on a superior officer are all acts of misconduct and in the instant case the delinquent has been found guilty of abuse and assault on the manager which is certainly a very serious act of misconduct and it cannot be said that the order of dismissal for such misconduct is disproportionate to the charge levelled against him. To me it appears that there is no scope for interference and the action taken by the management is proper and justified.

10. In that view of the matter, action of the management of Phularitand Colliery of M/s. Bharat Coking Coal Ltd., in dismissing Shri Harendra Nath Kunwar, Trammer with effect from 23rd March, 1975 is justified and the workman is entitled to no relief.

This is my award.

[No. L-20012/141/75-DIII(A)]

S. R. SINHA, Presiding Officer

New Delhi, the 1st February, 1978

S.O. 476.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial dispute between the employers in relation to the management of Bharat Coking Coal Limited, Dharamaband Sub-Area

Post Office Kharkharee, District Dhanbad and their workmen, which was received by the Central Government on the 23rd January, 1978.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT NO. 3, DHANBAD

Reference No. 25 of 1977

Old No. 87 of 1975

PARTIES :

Employers in relation to the management of Bharat Coking Coal Ltd., Dharamaband Sub-Area, P.O. Kharkharee, Dist. Dhanbad.

AND

Their workman represented by Koyala Ispat Mazdoor Panchayat, P.O. Kharkharee.

APPEARANCES :

For Employers—Shri Girindra Prasad, Advocate.

For Workman—Shri B. Lal, Advocate.

INDUSTRY : Coal.

STATE : Bihar.

Dated, the 14th January, 1978.

AWARD

This is a reference U/S 10(1)(d) of the Industrial Disputes Act, 1947, by the Government of India, Ministry of Labour under Order No. L-20012/120/74/LRII/DIII A dated the 21st July, 1975. The schedule of reference is extracted below :

SCHEDULE

"Whether the action of the management of Bharat Coking Coal Ltd., Dharamaband Sub-Area, P.O. Kharkharee, Dist. Dhanbad in relation to Jogidih Colliery in dismissing from service Shri Ram Lakhan Sao, Pump Khalasi, working as Bill Clerk is justified? If not, to what relief is the workman entitled?"

2. The order of dismissal was passed after domestic enquiry and a preliminary point was raised whether it was just and proper. The matter was heard and by an order dated 5-8-77 I came to hold that the finding of the Enquiry Officer was not quite sound and the enquiry had not been fair and proper.

3. I pointed out the infirmities and they were the non-production of measurement report in Form IV prepared by the Munshi, the non-availability of the statement of Panwa Bhuiya which was used by the Enquiry Officer, the lack of evidence regarding the collusion between the concerned workman and Shri P. C. P. Lala and others and further it actually double payment was made and who misappropriated the wages of Gaur Bauri and Balram Bauri as Trammer or as a Stacker.

4. At the time of hearing the measurement report of week ending 11-2-1974 prepared by Shri B. B. Mondal Surveyor has been produced. But so far as the other infirmities pointed out above nothing has been done to remove the same.

5. According to the Koyala Ispat Mazdoor Panchayat representing the workman it is said that Sri Ram Lakhan Sao was designated as Store Boy sometime after the take over but was entrusted with the job of Bill Clerk and was designated as a "Store Boy working as a Bill Clerk". On 3-6-1974 he was served with a chargesheet alleging that he had billed the wages for week ending 11-2-1974 of Gaur Bauri, Balram Gauri and Panwa Bhuiya as Stacker although their attendance in the said week had been recorded as Trammer. It was also stated in the chargesheet that the billing as aforesaid was done with an intention to misappropriate the amount and that he along with others did the same. The chargesheet further said that wages of the above three persons had been billed as Trammers by one Shri P. C. P. Lala.

6. It is further said in the written statement that the concerned workman denied the charges and took the stand that he had prepared the bill on the basis of the records placed before him. That record it is said was the measurement slip placed before him for billing duly signed by the Surveyor and the Manager and he did not disburse the wages for the week in question or for any week prior to or after that as he was actually a Bill Clerk and had nothing to do with the disbursement.

7. In the written statement the employer's case is that the workman concerned was dismissed for proved misconduct of fraud and dishonesty in connection with company's business after fair and impartial enquiry. The dismissal was justified due to the grave nature of misconduct and that there was no element of unfair labour practice or victimisation in this matter.

8. In support of the fairness of the domestic enquiry the employer examined one witness Shri S. S. Mitra, Senior Personnel Officer who had conducted the enquiry. Ext. M-1 is the chargesheet, Ext. M-2 is the reply of the concerned workman, Ext. M-3 is the record of the enquiry proceeding and Ext. M-4 is the enquiry report. Attendance register with respect to the week ending 11-2-1974 was produced before the Enquiry Officer but the same is not here. One attendance sheet week ending 12-2-1974 has been marked as Ext. M-8 but that sheet is also not traceable. Besides, it is not of the week ending 11-2-1974. I have said above that no attempt has been made to remove the infirmities that I had pointed out in my order on the preliminary point.

9. From the materials on record it is established that the concerned workman was working as Bill Clerk and that is also admitted in the written statement. Ext. M-9 is the wage sheet week ending 4-3-1974, Ext. M-10 is the wage sheet week ending 11-2-1974 and Ext. M-11 is the wage sheet week ending 7-1-1974. In Ext. M-10 the concerned workman has signed with respect to the bill that was prepared for the week ending 11-2-1974 but he has signed for the week ending 25-5-1977. In Ext. M-9 he has signed as a Bill Clerk preparing bill and in Ext. M-11 from pages 9 to 11 he has signed in the same capacity. Therefore, it is established that he was working as Bill Clerk. But the question is whether he had prepared the bill week ending 11-2-1974 for which chargesheet was given to him.

10. MW-2 is Shri Mohan Khaitan who was Manager of the Jogidih Colliery in October, 1974. His evidence is that the Stackers who are admittedly piece-rated employees work from 8 a.m. to 6 p.m. with a break of two hours and Trammers work in two shifts. According to him bill of time-rated employees are prepared on the basis of the attendance register and of piece-rated on attendance and measurement slips. The measurement slip week ending 11-2-1974, Ext. M-7, does not mention the name of Panwa Bhuiya meaning thereby that he was not working as a Stacker. He has stated that the Bonus Clerk reported to him that double billing had been done by the concerned workman with respect to certain employees and then he checked the bonus register as well as the wage sheets for the week ending 11-2-1974. With reference to the wage sheet week ending 11-2-1974 the witness says that at page 9 Panwa Bhuiya has been billed as Trammer and he has been shown as such in the attendance on the wage sheet. He, however, admits that the signature is of Shri P. C. P. Lala, Bill Clerk and it also bears his signature Ext. M-5. On referring to page 14 the witness has stated that he has been shown as a Stacker and this is in the pen of the concerned workman and is Ext. M-6. But in cross-examination he admits that at page 14 signature of the concerned workman is not there. When it was suggested to him that it was not the signature of Ram Lakhan Sao on the cuttings, the witness said that it might not be. He is definite that the signature below the wage section of the wage sheet is of Shri P. C. P. Lala. On being shown the wage sheets Exts. M-9 to M-11 his reply is that all of them bears the signature of Sri P. C. P. Lala against the entry "made by". He has further stated that he does not remember the signature of the concerned workman and therefore cannot be sure if at any place, it bears his signature or initial and he cannot identify his signature or initial at all. He has further stated that when he issued the chargesheet he did not try to ascertain if the payment sheets bore the signature or initial of the concerned workman.

11. It is thus clear that the wage sheet week ending 11-2-1974 has not been prepared by the concerned workman and therefore the charge that he has done double billing in the week ending as above cannot be said to have been substantiated. In his reply Ext. M-2 the concerned workman has stated that he has prepared the bill week ending 11-2-1974 on the basis of the attendance register but as the position stands he had not prepared the bill week ending 11-2-1974 and his statement in his reply cannot fasten any liability on him. He was examined before the Enquiry Officer and his statement was that if he had prepared the entire bill it could have been found as to where was the mistake and where there had been double billing.

12. Thus, from the evidence on record and the materials available it is not possible to hold that the concerned workman had prepared the bill week ending 11-2-1974 and had shown Panwa Bhuiya as a Stacker although he was working as a Trammer. If the bill was not prepared by him there can be no ground to say that he had any intention to misappropriate the amount of wages and that he was in collusion with Shri P. C. P. Lala, the other Bill Clerk. No evidence has been brought before me to establish that Balram Bouri and Gour Bauri were paid single wages and the duplicate payment was misappropriate by him. It is not the who is in charge of payment and as a Bill Clerk his duty was to prepare bill which he did not do. Therefore, none of the charges mentioned in Ext. M-1 can be said to be established.

13. MW-3 is the Bonus Clerk of the Jogidih Colliery and his evidence is that the entry at page No. 232 of the bonus register, Ext. M-7/1, concerning Panwa Bhuiya is in his pen and on checking the wage sheet with respect to week ending as above he found that he had been billed twice. He then got suspicious and then reported the matter to the Manager. MW-4 is the Attendance Clerk of the colliery and he has stated that in week ending 12-2-1974 Panwa Bhuiya has been shown as Trammer and not as a Stacker. M-5 is the Cashier in the Jogidih Colliery and he has proved Exts. M-6 and M-9. Evidence of these witnesses is absolutely of no consequence as it has not been established that the bill week ending 11-2-1974 was prepared by the delinquent. It matters little so far as we are concerned as to whether Panwa Bhuiya worked as Trammer or Stacker and if other wage sheets were prepared by him but not of the week ending 11-2-1974, no liability can be fastened on him.

14. WW-1 is the concerned workman. He speaks about Ext. M-10 and Ext. M-11 and admits that they were prepared by him. He says that Exts. M-5 and M-6 were prepared by Sri P. C. P. Lala and denies that the pay sheet at page 14 for the week ending 11-2-1974 is in his pen.

15. Taking into consideration the entire materials, oral and documentary, it is very difficult to hold that the bill for the week ending 11-2-1974 was prepared by the concerned workman and he had any intention to misappropriate the same and that he actually misappropriate any amount paid to other workmen as wages. Therefore the finding of the Enquiry Officer was without any basis and perverse cannot be sustained. Accordingly Shri Ram Lakhan Sao working as Bill Clerk who has been dismissed from service is entitled to reinstatement and full back wages for the idle period.

This is my award.

S. R. SINHA, Presiding Officer

[No. L-20012/120/74/LRH/DIIIA]

New Delhi, the 3rd February, 1978

S.O. 477.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial dispute between the employers in relation to the management of Jeenagora Colliery of Messrs Bharat Coking Coal Limited, Post Office Khas Jeenagora, District Dhanbad and their workmen, which was received by the Central Government on the 1st February, 1978.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT (NO. 3) AT
DHANBAD

Reference No. 33 of 1976

PARTIES :

Employers in relation to the management of Jeenagora Colliery of M/s. B.C.C. Ltd., P.O. Khas Jeenagora, Dist. Dhanbad.

Vs.

Their Workmen

APPEARANCES :

On behalf of the Employers : Shri T. P. Choudhury, Advocate.

On behalf of the Workmen : Shri Shankar Bose, Secretary, Rashtriya Colliery Mazdoor Sangh.

STATE : Bihar. INDUSTRY : Coal.

Dated, the 23rd January, 1978

AWARD

This is a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India, Ministry of Labour under Order No. L-20012/175/75/DIIIA, dated the 11th June, 1976. The schedule of reference is extracted below :—

SCHEDULE

"(i) Whether the action of the management of Jeenagora Colliery of Messrs Bharat Coking Coal Limited Post Office Khas Jeenagora District Dhanbad in transferring Sarvashri 1. Mahesh Prasad 2. Gangadhar Jha 3. Suresh Pathak 4. Sada Nand Upadhaya 5. Haridayanand Singh 6. Rajeshwar Pandey 7. Rajendra Prasad and 8. Falendra Singh all packing Mazdoor to work as Wagon Laders vide office order No. BCCL/576/76 dated. 31st December, 1974 is legal and justified ? If not to what relief are the workmen entitled ?

(ii) Whether the action of the management of Jeenagora Colliery of Messrs Bharat Coking Coal Limited Post Office Khas Jeenagora, Dist. Dhanbad in stopping from work the eight Packing Mazdoors listed in (i) above with effect from 12th July, 1975 is justified ? If not to what relief are the workmen entitled ?

2. According to the schedule the dispute for adjudication relates to the justifiability or otherwise of the action of the management of Jeenagora Colliery in transferring the eight concerned workmen working as Packing Mazdoors to work as Wagon Laders and the action of the same management in stopping the eight concerned workmen from work with effect from 12th July, 1975. Thus, it falls for consideration as to whether the transfer is legal and justified and the stoppage is justified.

3. This reference was made when the failure report dated 22/23rd August, 1975, was sent by the Assistant Labour Commissioner (C), Dhanbad-II to the Secretary, Government of India, Ministry of Labour, New Delhi. Before him the dispute was raised by the Secretary, Colliery Mazdoor Sangh, Tisra Branch. The Union was represented by Shri J. B. Singh Branch Secretary and G. D. Pandey authorised representative of the workmen. The management was represented by Shri I. D. Singh, Senior Personnel Officer. The conciliation could not succeed as the parties stuck to their divergent views and as such the reference was made.

4. On behalf of the employers a written statement has been filed contending *inter alia* that the eight concerned workmen had been the employees of a Contractor prior to the nationalisation and at the instance of the recognized union they were absorbed in the B.C.C. Ltd. as Packing Mazdoors with effect from 1-6-1972 and they constituted a part of 30 Packing Mazdoors in Kallhan Section of the colliery. In the middle of 1974 it was felt that the requirement of labour for packing job had been considerably reduced and to avoid retrenchment in consultation with the

union an agreement Ext. M-1 was arrived at on 6-7-1974 by which all these concerned workmen besides others in the packing job were to be provided with alternative employment as Wagon Loaders on usual piece rate. In pursuance thereof the Manager of the colliery issued office order dated 31-12-1974 Ext. M-4 whereby 17 Packing Mazdoors including the concerned workmen were transferred to work as Wagon Loaders with effect from 1-1-1975. They, however, refused to abide by the agreement and it was only when warning letters Ext. M-3 series dated 12-6-1975 were issued that they started working as Wagon Loaders.

5. It is further said that thereafter an industrial dispute was raised by the union before Asst. Labour Commissioner (C) by a letter dated 10-7-1975 (mentioned in the failure report) and the concerned workmen stopped work with effect from 12-7-1975. It is denied that it was the management which stopped them from work with effect from the above date.

6. Case further is that the concerned workmen had worked earlier on piece rate and the wage scale of the Wagon Loaders is much higher than that of packing mazdoors with the provision for high fall back wages. Therefore, the order of transfer as wagon loaders did not in any way prejudice their condition of service and as this change was effected in pursuance of an agreement with the union no notice under any law was required. Union's action retracting from the agreement without notice and espousal of the dispute covered by the agreement constitutes a breach of discipline.

7. It is accordingly submitted that the workmen have no case and are entitled to no relief.

8. For the workmen, written statement has been filed by the Secretary, Rashtriya Colliery Mazdoor Sangh and it is said that the eight concerned workmen are permanent employees of Jeenagora Colliery working as time rated in the capacity of packing Mazdoors and have become permanent in their job. The management had never declared that their job was not available nor any notice was issued to them that the packing work of the colliery had been of a casual nature and that the packing mazdoors would be declared as casual mazdoors. It is not open to the management to change the conditions of a permanent workman detrimental to his interest.

9. It is further said that the union raised objections to the office order dated 31-12-1974 and then there was a settlement on 20-1-1975 when it was decided that 12 workmen would be maintained for packing job for the time being. Subsequently, by an office order dated 30-4-1975 Ext. W-1 they were allowed duties in 8 Seam (Khas Section of Jeenagora Colliery). Thereafter, on 1st July, 1975 by an office order Ext. W-1/1 they were transferred to Central Sulunga Section without mentioning as to whether it would be as casual on piece rate basis or on time rate. Then by an office order dated 9-7-1975 the colliery management stated that the 8 concerned workmen would be treated as piece rated and as they did not agree to the management's arbitrary and illegal orders they were stopped from their duties with effect from 12-7-1975.

10. It is further stated that when the management did not give any relief on their demand the matter was brought before the Assistant Labour Commissioner (C) and then the failure report and the reference were made. It is contended that the action of the management is absolutely unjustified and the workmen are entitled to the reliefs claimed.

11. In support of the case the management has examined 3 witnesses, MW-1 Shri M. P. Verma who in 1974 was posted in Kustore Sub-Area as Senior Industrial Relation Officer and was attached to Area Office of Area IV (Old) and Jeenagora colliery was under this Area, MW-2 Shri S. Sahay who was Manager of Jeenagora from 18-12-1974 to 18-4-1976 and MW-3 Shri Mahesh Prasad who was working as Welfare Officer in Jeenagora colliery from 11-11-1972 to 31-12-1973 and as Personnel Officer from 1-1-1974 to 20-9-1976. I have already mentioned above the documents which have been brought on record by the management and marked as exhibits.

12. One of the concerned workmen Shri M. P. Singh, has examined himself in support of their case and the documents have already been referred to above.

13. The Khas Jeenagora Kalithan Section, East Bararee Section and Central Sulunga Section were different collieries of different companies before nationalisation and after nationalisation they were all amalgamated and came to be known as Jeenagora colliery. It is absolutely immaterial as to whether the concerned workmen were working under a Contractor as it is admitted by the management that they were absorbed by the management as packing mazdoors and they constituted the labour force of packing mazdoors in Kalithan Section of the colliery along with several others. The packing mazdoors are time rated and the wagon loaders are piece rated. Therefore, if the concerned workmen who had been absorbed as packing mazdoors on time rated basis have been transferred as wagon loaders on piece rate basis arbitrarily certainly that action would be illegal and unjustified, particularly in view of the fact that as admitted by the management no notice under section 9A of the Industrial Disputes Act was given to them.

14. But it is said on behalf of the management that this was done in pursuance of the agreement M-1 dated 6-7-1974. WW-1 has said that he is not aware of any discussion between the union and the management regarding them nor he is aware of any agreement between the two concerning them. The minutes of discussion dated 8-12-1974 is Ext. M-2. Evidence of MW-1, however, is that there was a dispute between management and the union regarding 30 packing mazdoors employed by the Contractor in Kalithan Jeenagora colliery for regularisation and a committee was constituted by General Manager of which Shri Rabikant Jha Secretary of the Union and he himself were the members. After thorough discussion it was decided that they were to be absorbed as piece rated wagon loaders. Ext. M-1 he proves and says that it has been signed by R. K. Jha and witnessed by C. R. Jha on behalf of the Rashtriya Colliery Mazdoor Sangh and he as well as Shri D. B. Pandey, Personnel Officer, signed on behalf of the management. In cross-examination he says that the local branch of the Rashtriya Colliery Mazdoor Sangh had entered into negotiations and its representatives signed Ext. M-1. MW-3 has stated with reference to Ext. M-1 that R. K. Jha and Shri A. N. Jha were the Vice-Presidents of the union which was known as colliery Mazdoor Sangh at that time. He, however, admits in cross-examination that designation of Shri R. K. Jha and A. N. Jha is not mentioned therein.

15. It is true that their designation is not there and MW-1 has denied any knowledge about it, but I am not inclined to hold that Ext. M-1 is a spurious document manufactured for the purpose of this case. To avoid retrenchment if the union representatives agreed for the transfer of the 8 concerned workmen besides others as wagon loaders it cannot be said that such an agreement was not required at that time. Evidence of MW-1 and MW-3 is quite convincing on the point and on the materials available the genuineness of Ext. M-1 cannot be disputed.

16. Section 19(2) of the Industrial Disputes Act, 1947 lays down that a settlement for which there is no agreed period for which it is to remain effective, it will continue to be so for the period of 6 months from the date on which it is signed by the parties to the dispute and will continue to be binding on the parties after expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement. This section has been embodied in the Act mainly for the purpose of maintaining industrial peace for the period either mentioned in the settlement itself or for a period of six months and in both the cases even thereafter until it is terminated by notice on either side. In *Mysore Vegetable Products Limited vs. their workmen* (1965) II-L.L.J. 8 and in *State of Kerala vs. Antony D'cruz* (1966) I-L.L.J. 373 it has been held that the settlement does not cease to be binding and under sub-section 2 of Section 19 it is not open to the parties to terminate and unilaterally repudiate the settlement without complying with the requirement of that sub-section. Therefore, a notice of intention in writing to terminate a settlement would be necessary in either case.

17. If we refer to Ext. M-1 it would appear that the settlement does not give any time which means that it would be operative for 6 months and then to terminate it the parties would have to give notice in writing and thereafter it will continue for 2 months. If this requirement of law is not complied with, as we find in the present case, that settlement

would remain valid and effective and binding upon the parties.

18. There is yet another document Ext. M-2, minutes of discussion dated 8-10-1974 in which the specific terms of settlement relating to ash packing mazdoors mentioned in Ext. M-1 has been reiterated. MW-2 has proved Ext. M-2. It was objected to by the union on the ground that it had been produced late but I admitted it into evidence when it was proved as I considered that it was an important document which might be of help to me in giving my award. The witness says that Shri D. B. Pandey and Shri Manesh Prasad signed on behalf of the management and Shri J. B. Singh, Dinesh Prasad Singh and P. N. Thakur signed on behalf of the workmen. He says further that there were two unions functioning at the local unit when he was the manager and they were Bihar Colliery Kamgar Union and Rashtriya Colliery Mazdoor Sangh and they were presented by Shri J. B. Singh and Kamleshwar Jha. He has stated further that Shri Singh was working in the capacity of Branch Secretary and Shri Jha as Assistant Branch Secretary. MW-3 is a signatory of this document and says that Shri J. B. Singh of Tisra Branch and D. B. Pandey, Personnel Officer signed on it and he also put his signature. In cross-examination the witness admits that the concerned workmen are not mentioned in this Ext. M-2. But that, in my opinion, does not cut any ice as it has to be read in sequence of Ext. M-1. If we refer to the failure report it would appear that Shri J. B. Singh, Branch Secretary of the Colliery Mazdoor Sangh and Shri G. D. Pandey authorised representative of the workmen attended conciliation proceedings on behalf of the union/workmen. The same Shri J. B. Singh has signed Ext. M-2. Therefore, to me it appears that objections raised by Shri Shankar Bose regarding this document are entirely out of place and there can be no doubt that it is a genuine document and to a very great extent supports the settlement arrived at in Ext. M-1. In paragraph 4 it is that that after discussion it was agreed that 17 heads of ash packing mazdoors were to work as wagon loaders as per settlement arrived at earlier leaving the remaining 12 heads in ash packing for the time being. It was thereafter that office order Ext. M-4 dated 31-1-1974 was issued and the concerned workmen were transferred to work as Wagon Loaders.

19. Thus, as the position stands, I find that the transfer of the eight concerned workmen from ash packing job to wagon loading, from time rated to piece rated job, was in pursuance of an agreement Ext. M-1 which was confirmed in Ext. M-2 and consequently this transfer must be considered as legal and action of the management as justified.

20. Let us now take up the other part of the schedule. It relates to the alleged stoppage of work to the concerned workmen. When even after the office order the concerned workmen did not join there was again a meeting between the union and the management on 20-1-1975 as has been testified to by MW-2 and his evidence is that it was again decided with the concurrence of the union that out of 30, 17 heads would go as Wagon Loaders and the rest as packing mazdoors. He says further that in spite of this discussion the workmen did not join their duties and he issued instructions in writing to the concerned workmen to join as Wagon Loaders. His evidence is that in June, 1975 he gave last warning asking them to report to their duties and that is Ext. M-3 to Ext. M-3/7 and he says that thereafter they worked for some time as directed. His evidence is that as packing job was not available at the Kalithan Section they were asked to join as Wagon Loaders. For some time he managed to give them employment as packing mazdoors but subsequently as per settlement they were asked to join as Wagon Loaders. According to him these workmen were never time rated workers although for some time to ensure payment of wages they were paid at time rate basis though in fact they were piece rated. His evidence is that for the sake of payment they were put in category I time rate.

21. According to the management's case they were not stopped from work rather, they themselves refused to join their duties. WW-1 has stated that in 1975 they were told that their payment would be at piece rate which they refused and thereafter—they were transferred to Sulunga Colliery on the same job and that also they refused. His evidence is that Sulunga is a part of Jeenagora colliery. It means that it was not at the instance of the management but these workmen themselves refused to join their duties although as it appears on 30-4-1975 by an order Ext. W-1 they were directed to join as Packing Mazdoors at 8 seam Khas Section and thereafter on 1-7-1975 by an office order Ext.

M-1/1 they were transferred to Central Sulunga Section to work as Packing Mazdoors. It seems that after discussion on 20-1-1975, the change was effected and although there was an office order Ext. M-4 transferring these concerned workmen to work as wagon loaders by means of Ext. W-1 they were directed to join as Packing Mazdoors. They did not however join. There was another office order Ext. W-1/1 by which they were transferred to Central Sulunga Section of Jeenagora colliery and were directed to join as Packing Mazdoors. This direction was quite legal as the transfer was within the same management in another section of the colliery and for this no notice was at all required and it did not in any way bring about any change in the service condition or in any way affected them adversely.

22. In paragraph 12 of the written statement filed on behalf of the workmen it is said that office order dated 30-4-1975, Ext. W-1, did not say as to what would be the basis of payment, whether as casual on piece rate or at time rate. But this objection was not at all tenable in view of the office order asking them to join as Packing Mazdoors which is time rated job. The same type of objection has been taken in paragraph 13 with regard to Ext. W-1/1. In paragraph 14 it is said that there was an office order dated 9-7-1975 in which it was said that the eight concerned workmen would be treated as piece rated and that was resented by them and thereafter they were stopped from duties with effect from 12-7-1975. That office order is not on record as it has not been filed by either party. Wage-sheets have been filed by the management for the weeks ending 28-6-1975, 5-7-1975 and 12-7-1975. The first two sheets show that the concerned workmen were paid at the rate of Rs. 10/- per day as Packing Mazdoors. Third sheet for the week ending 5-7-1975 indicates the same state of affairs and the last sheet for the week ending 12-7-1975 mentions only 5 names out of the eight concerned workmen and shows that these five workmen worked only on the 7th and were paid at the rate of Rs. 10/- per day. It would thus appear that all along they were treated as time rated and there is no document on record which may support the contention raised in paragraph 14 of the written statement. If they were to continue as Packing Mazdoors at Sulunga Section I do not think in the ordinary course they could have been treated as piece rated workmen.

23. Union had been fighting all along and at one time it had agreed for their transfer as Wagon Loaders. It was again at its instance that they were given the job of packing mazdoors. I do not find any plausible explanation as to why they would be treated as piece rated workmen. Unfortunately, the failure report does not mention the case of the parties and the copy of the representation of the union and the copy of the comments of the management have not been forwarded to the Tribunal. Thus, there is a complete paucity of evidence that there was an office order dated 9-7-1975 by which the concerned workmen were to be paid at piece rate. It is their admitted case that they refused to join their duties thereafter which means that there was no stoppage of work to them by the management with effect from 12-7-1975 as alleged. It would be quite unfair for the management to treat them as piece rated when they have been allowed to continue as Packing Mazdoors in Sulunga Section of Jeenagora colliery and I am sure such step cannot be taken by them. This is an important point which I would like to emphasize.

24. From my discussion above it follows that there has been no stoppage of work to the eight concerned workmen by the management and consequently they cannot be given the relief of reinstatement with back wages. But certainly the management must allow them to continue as Packing Mazdoors at the Sulunga Section of Jeenagora colliery where they had been working and treat them as time rated workmen. This should be implemented without the least delay. Of course, they cannot be given back wages as they have stopped going to their job on their own accord.

25. Order of the management transferring the eight concerned workmen as Wagon Loaders was legal and justified in view of the settlement existing between the parties. As there has been no stoppage at the instance of the management these workmen are not entitled to re-instatement with back wages but the management must provide them with

job of Packing Mazdoors as time rated as soon as they join their duties.

This is my award.

S. R. SINHA, Presiding Officer.
[No. L-20012/175/75-D. III.A]

S.O. 478.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial disputes between the employers in relation to the management of Jeenagora Colliery of Messrs Bharat Coking Coal Limited, Post Office Khas Jeenagora, District Dhanbad and their workmen, which was received by the Central Government on the 1st February, 1978.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT NO. 3, DHANBAD.

Reference No. 34 of 1976

PARTIES :

Employers in relation to the management of Jeenagora Colliery of M/s. B. C. C. Ltd., P. C. Khas Jeenagora, Distt. Dhanbad.

AND

Their workmen represented by Colliery Mazdoor Sangh Dhanbad.

APPEARANCES :

For Employers—Shri T. P. Chowdhury, Advocate.
For Workmen—Shri S. Bose.

INDUSTRY : Coal

STATE : Bihar

Dated : Dhanbad, the 25th January, 1978

AWARD

This is a reference U/S 10(1)(d) of the Industrial Disputes Act, 1947, by the Government of India, Ministry of Labour under Order No. L-20012/179/75-D. III (A) dated the 11th June '76. The schedule is extracted below :—

SCHEDULE

Whether the action of the management of Jeenagora Colliery of M/s. Bharat Coking Coal Ltd., P.O. Khas Jeenagora, Distt. Dhanbad in treating the following workmen as casual workers is justified ?

1. Shri Sudhir Singh.
2. Shri Sukhari Singh
3. Shri Sitaram Singh
4. Shri Dulal Singh
5. Shri Asin Singh
6. Shri Budhan Sao
7. Shri Gopal Sao.
8. Shri Budhan Singh

If not to what relief are the said workmen entitled ?

2. From the schedule of reference it appears that the dispute referred to this Tribunal relates to the 8 workmen mentioned therein who are being treated as casual workers meaning thereby that previously they were not so and subsequently their nature of job has been changed by the management.

3. The failure report dated 30-8-75 is on record, but it is of no help as the representation made by the Union, Colliery Mazdoor Sangh and the comments of the management have not been forwarded to the Tribunal. It is thus not possible to ascertain as to what stand they had taken before the Conciliation Officer.

4. The management in its written statement has put forward a case that the substantive posts of the concerned workmen are that of casual wagon loaders. In 1974 they were employed as casual soft coke makers on piece rate and even as wagon loaders they were being paid on piece rate and this code of payment continued till 23-11-74. At the

instance of the union the management agreed to pay the concerned workmen at Category I time rate but purely as a temporary measure till the deliberations of the National Tripartite Committee were complete. Thereafter, the National Coal Wage Agreement came which was implemented from 1-1-75 and that governs the wages in the coal industry all over the country. The concerned workmen, however, refused to draw their wages on the plea that they were time rated permanent workers with effect from 31-5-75.

5. It is submitted that merely because for some time they were paid at time rate basis that did not create any new condition in their favour. Their attendance in 1974 varied between 146 to 166 days and in 1975 between 83 to 113 days.

6. Their case further is that wagon loading, soft coke making, stacking, cleaning and allied operations in the colliery depot are particularly casual in nature and the B.C.C. Ltd., like all other Coal Companies has been keeping a casual labour pool over and above the permanent nucleus of workers for these operations and the concerned workmen had always been members of the casual labour pool of the Jeenagora Colliery.

7. It is accordingly contended that the workmen have no case and that it is not correct to say that they were ever on roll as permanent workmen and have been subsequently transferred in the casual pool.

8. A written statement has been filed by the Rashtriya Colliery Mazdoor Sangh and stand taken is that they are all permanent workers and were working as soft coke Bhatta manufacturer and paid wages on time rate basis which had become the condition of their service and that system was in vogue ever the years without any dispute from any quarters. The management has arbitrarily changed their service condition and has put them in the casual pool of wagon loaders on piece rate basis.

9. It is submitted that the motive of the management in doing so is to create difficult condition of service so that the concerned workmen may leave their job and run away. They having been performing a permanent nature of job for a pretty long time cannot be ousted from that position without assigning any reasonable ground. The very idea of casual worker in permanent nature of job is an out dated theory and it cannot be resorted to.

10. It is accordingly submitted that the action of the management is unjustified and the workmen are entitled to the relief claimed.

11. In support of the case one of the workmen has examined himself as WW-1. The management has examined two witnesses, MW-1 Shri Sidh Nath Sahay who was Manager in the Jeenagora Colliery from 18-11-74 to 18-4-76 and Shri Mahesh Prasad, MW-2 who was Welfare Officer in the Jeenagora Colliery from 11-10-72 to 31-12-73 and was Personnel Officer from 1-1-74 till 20-9-76.

12. The management has brought on record Form B register from 1971 Ext. M-1, list of casuals Ext. M-2, two bonus registers for 1974 and 1975 Exts. M-3 and M-3/1 respectively and Identity Card Register for the year 1974 Ext. M-4. No paper is there on behalf of the workmen.

13. As I have said earlier the most important point which falls for consideration is whether their initial appointment was in the casual pool or they were appointed as permanent hand and subsequently the management has tried to push them in the casual pool. It is a matter of a common knowledge that wagon loading and manufacture of soft coke are jobs of permanent nature but only small number of workmen are employed as permanent nucleus and a pool of casual workmen is maintained to be employed as and when necessary. These types of workmen are paid on piece rate and not of time rate. The workmen claim to be quenchers and say that their payment is at time rate and not at piece rate. We all know that quenching is only one of the processes in the manufacture of soft coke and if some workmen are engaged only on quenching that cannot change the nature of job and mode of payment. WW-1 has admitted that the rate of payment to the quenchers has not yet been decided by the Company. He says further that they burn the stack cover it and then quench. His evidence is that prior to 1-12-74 they were being paid as on piece rate and since

thereafter the wages of Category I. MW-1 has said that till November 74 they were paid at piece rate and thereafter at time rate as per order of the Sub-Area Manager as there was no clear guideline for payment of wages to this type of casual labour. His evidence is that they were being utilised from time to time in burning, quenching, covering and cleaning of the manufactured soft coke but they were not required to do stacking.

14. In paragraph 4 of the written statement of the employers it is said that they were employed as casual soft coke makers in 1974 on piece rate and were being paid on piece rate till 23-11-74. In paragraph 5 it is said that as no clear guideline was available, at the instance of the concerned union it was agreed to pay the concerned workmen at Category I time rate as a temporary measure.

15. Thus, according to the written statement, evidence of MW-1 and evidence of WW-1 they were being paid at piece rate till 1974 and thereafter at time rate according to some agreement with the union. Identical is the evidence of MW-2 who was in service in 1972 as Welfare Officer. He has stated that they were initially appointed as casual wagon loaders and sometimes they were utilised also in the manufacture of soft coke. He gives the different processes of the manufacture of soft coke and speaks that payment used to be made at piece rate as per schedule prepared by the B.C.C. Ltd. He also says about the demand of the union as a result of which they were being paid wages of Category I. He says further that when the National Coal Wage Agreement was implemented their workload was fixed at 3.75 tonnes per head and payment used to be made on the basis of that workload when measurement was done by the Surveyor.

16. It is thus clear that they were being paid at piece rate till 1974 and in 1975 at the instance of the union payment to them started to be made at time rate of Category I and thereafter when the National Coal Wage Agreement came into force, where workload was indicated, again the B.C.C. Ltd., started paying them at piece rate on the workload of 3.75 tonnes per head of the manufactured soft coke on the basis of the measurement done by the Surveyor. Therefore, even if they were employed as quenchers and not as wagon loaders which job may be of permanent nature, on the basis of the mode of payment they cannot claim to be permanent and if for a particular period they were treated as Category employee and paid at time rate that cannot create a right in them to claim permanency and payment at that rate.

17. In National Coal Wage Agreement at page 11 the soft coke maker has been placed in Group IV, basic wage has been fixed at Rs. 11.59 paise, full back wage at Rs. 10.63 paise and workload at 3.75 tonnes. It means that for a workload of that quantity the basic wage is fixed at Rs. 11.59 and in no case they are to be paid at less than Rs. 10.63. According to the union the National Coal Wage Agreement does not bind them to which I do not agree. This agreement is to remain in force as per paragraph 9.1 for a period of five years from the 1st of January '75 and that period is still continuing. The Joint Committee for the Coal Industry is still functioning as a Standing Body and according to paragraph 9.3 at page 18 in case of any doubt or difficulty in interpretation or implementation of any of the provisions of this agreement, the same shall be referred to the Joint Committee for the Coal Industry for consideration and final decision.

18. According to Mr. T. P. Chowdhury appearing for the management jurisdiction of the Tribunal is ousted as per paragraph 9.3 of the National Coal Wage Agreement and doubts or difficulties in interpretation or implementation of any of the provisions of this Agreement have to be removed by the Joint Committee for the Coal Industry. But in the instant case the dispute is not regarding the interpretation or implementation of the Agreement, rather, as to what was the initial appointment of these workmen and if they are now being treated arbitrarily in the casual pool. If the Tribunal comes to the conclusion that they are in the casual pool since the time of their appointment undoubtedly they will be paid at the rate mentioned in the National Coal Wage Agreement as per workload given therein.

19. I have already said above that as the evidence is till 1974 they were being paid at piece rate and although nature of job of a wagon loader or soft coke manufacturer may be of permanent nature, the number of persons employed on each date on those jobs is bound to vary. Number of wagon loaders will depend upon the placement of

wagons and the number of quenchers will depend upon the availability of steam coal and their stacks available. MW-2 has stated that manufacture of soft coke starts by stacking about 2½ wagon loads of coal and payment is made on the measurement done by the Surveyor of the finished goods and all those engaged in the manufacture of soft coke are paid at the same rate. He says further that on 11-10-72 when he joined manufacture of soft coke was being done and the concerned workmen were also engaged in this job besides others. MW-1 has similarly stated that they are casual wagon loaders and are being utilised from time to time in different processes of manufacture of soft coke. I have already referred to the evidence of WW-1 where he has said that he along with other seven in the reference was being paid at piece rate.

20. On the evidence discussed above it is clear that they were appointed as casual wagon loaders and were from time to time engaged in quenching and till 1974 they were being paid at piece rate and for some time in 1975 they were paid at time rate as Category I workmen which was stopped when the National Coal Wage Agreement came into force. Merely because they were paid at time rate at some time that cannot create a right in them to claim permanency and payment at that rate. Now that the National Coal Wage Agreement has fixed the workload and also the amount that a Stacker is entitled to draw as his wages on that workload, these workmen will be governed by the same and to my mind this is not a matter which need be referred to the Joint Committee for Coal Industry and the matter in dispute is not covered by paragraph 9.3 of the National Coal Wage Agreement which may oust the jurisdiction of the Tribunal.

21. Ext. M-2 is the list of casuals maintained by the Colliery and therein Dulal Singh is in Sl. No. 266, Sudhir Singh is in Sl. No. 274, Sukhari Singh is in Sl. No. 273, Gopal Sao is in Sl. No. 269, Budhan Sao is in Sl. No. 291, Sitaram Singh is in Sl. No. 276 and Asin Singh is in Sl. No. 234. It has not been possible for me to find out the name of Budhan Singh, but in all probability he must also be there. The serial number in bonus register has also been given with the date of appointment. Date of appointment of all of them is 1-1-1974 and the same is to be found in Form B register, Ext. M-1. MW-2 has stated that when he joined in 1972 the concerned workmen were engaged in manufacture of soft coke but in Form B register date of appointment has been noted as 1974 as it was in that year that they were regularised by the B.C.C. Ltd., at the instance of the union. Good deal of cross-examination has been conducted regarding the entries of Form B register, but they are of no help to us and the fact remains that they were employed as casuals and were noted in the list of casual workers and when they were regularised in 1974 they were noted in the Form B register, Ext. M-1. In the Bonus register of 1975, Ext. M-3/1, these workmen are to be found at pages 172 to 179 and there also the date of appointment is 1-1-1974.

22. Therefore, as the position stands, there is no question of treating these workmen as casual workers as in fact their initial appointment was in that category and although for a small time they were treated as Category I workmen of the Coal Wage Board recommendations, subsequently they were again placed in the same category as before after the National Coal Wage Agreement became effective. To me, it appears that the demand of these workmen to be treated as permanent hand and their claim to be paid at time rate are not justified and it is not correct to say that the management of Jeenagora Colliery of M/s. B.C.C. Ltd., has started treating them as casual workers although they had enjoyed the privilege of permanency and were being paid at time rate.

23. That being so, the action of the management in treating these workmen as casual workers is justified and they are entitled to no relief.

This is my award.

S. R. SINHA, Presiding Officer

[No. L-20012/179/75-D. IIIA]

S.O. 479.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 3, Dhanbad, in the industrial disputes between the employers in relation to the management

of Kapasara Colliery of Messrs Eastern Coalfields Limited, Post Office Mugma, District Dhanbad and their workmen which was received by the Central Government on the 1st February, 1978.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT (NO. 3) DHANBAD

Reference No. 50 of 1977

Reference No. 26 of 1976

Employers in relation to the management of Kapasara Colliery of M/s. Eastern Coalfields Limited, P. O. Mugma, District Dhanbad.

AND

Their workmen.

APPEARANCES :

On behalf of the employers : Shri T. P. Chowdhury, Advocate.

On behalf of the workman : Shri G. Prasad, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dhanbad, 23rd January, 1978

AWARD

This is a reference under section 10(1)(d) of the I. D. Act, 1947 by the Government of India, Ministry of Labour under order No. L-20012/154/75-DIIIA dated 17th May, 1976. The schedule is extracted below :

SCHEDULE

"Whether the action of the management of Kapasara Colliery of Messrs Eastern Coalfields Limited Post Office Mugma District Dhanbad in stopping Shri Balram Kumar Uppal, Munshi from work with effect from 5th February, 1974 is justified ? If not to what relief is the said workman entitled ?"

2. The point for adjudication is the justifiability or otherwise of stoppage of work to Shri Balram Kumar Uppal with effect from 5th February, 1974 by the management of Kapasara colliery of M/s. Eastern Coalfields Limited.

3. From the failure report dated 5-8-75 of the Assistant Labour Commissioner (C) Dhanbad-I it appears that Shri Balram Kumar Uppal had raised an industrial dispute under S. 2-A of the I. D. Act, 1947 and had set up a case that he was in service of East Kapasara colliery from before take over and had gone on leave and had to extend his leave due to his illness on account of which it was on 5-2-74 that he approached the Manager with a certificate of fitness for permission to resume his duties which was refused.

4. It further appears from the failure report that the stand of the management was that there was no relationship of employer and employee between the parties and that they were not prepared to employ him.

5. On receipt of the above failure report reference was made to this Tribunal as stated above and the parties have given their respective cases in their written statement.

6. Case of the workman is that he joined the East Kapasara colliery in July, 1972 as a permanent Munshi and at his request leave was granted to him from 14-6-1973 to 21-6-1973. In the meantime he fell ill and applied for extension. After the recovery he reported for duty on 5-2-1974 with a medical certificate; but was refused on account of his trade union activities which was not liked by the employers.

7. It is further said that on 11-2-1974 he sent a representation to the Unit Manager, Kapasara Unit, Mugma Sub-Area with a copy to all concerned making a demand and raised an industrial dispute. But his request was turned down. Then on 5-3-1974 he requested interference by the Assistant Labour Commissioner and conciliation proceeding started. The case that was set up by the management was false and

colourable. His name had been entered in the form B register, P. F. number was allotted to him and contribution towards the provident fund was regularly deducted from his wages. Not only that but he was getting his quarterly bonus as well. As he was in the service of the colliery on the date of nationalisation he acquired a statutory right to continue in employment and the stoppage of work w.e.f. 5-2-1974 is illegal.

8. His prayer is for reinstatement with back wages and other consequential relief on the case as made above.

9. The employers have filed written statement reiterating that there was no relationship of employer and employee between the parties. As no industrial dispute was raised prior to the start of the conciliation proceeding the reference itself is invalid.

10. It is said that the East Kapasara colliery, a non-coking coal mine, vested in the Custodian appointed under the Coal Mines (Emergency Provisions) Ordinance, 1973 from 31-1-73. The colliery was owned by one Gurudas Ram Kapahi and was being run by Shri Nandlal Nair. The concerned workman is the brother-in-law of Nandlal Babu. As soon as the management of the non-coking coal mines was taken over large number of persons in all the collieries including the East Kapasara colliery with the help and assistance of unscrupulous employees managed to get themselves entered in relevant registers and the concerned workman was inducted in the same manner.

11. Case further is that Shri Uppal was never appointed as a permanent munshi, was not granted leave as alleged as he was not an employee of the mine and any document which he might produce must be manufactured in collusion with the staff of the colliery.

12. It is contended that there being no relationship of employer and employee question of stoppage of work does not arise and the entire claim of the concerned workman is unfounded.

13. In support of his case the workman has examined himself as WW-1 and has produced a few documents, Ext. W-1 dated 28-6-72, his letter of appointment, Ext. W-2 dated 5-2-74 his joining report, Ext. W-2/1 dated 11-2-74 application to the Unit Manager requesting for job and asserting his claim, Ext. W-2/2 dated 5-3-74, an application addressed to the Manager, Kapasara Unit detailing the points in his favour for getting a job, Ext. W-3 dated 13-3-75 a letter from the Labour Enforcement Officer to the concerned workman asking him to apply to the management for recruitment in category immediately and Ext. W-2/3 dated 17-3-75 is his application in pursuance to the above.

14. On behalf of the employers two witnesses have been examined viz. MW-1 Shri S. C. Roy, overman and MW-2 Shri Naba Gopal Das, working as Assistant Manager in Kapasara colliery. Quite a few documents have been produced in support of the case that he was working on commission basis and Exts. M-1, M-1/1 and M-2 are the slips given to the concerned workman for issue of baskets from the store and the last one is the payment voucher regarding commission paid to him. They have produced the wage register, Ext. M-3, Form B register, Ext. M-4, bonus register, Ext. M-5 and Over Burden Removal Register, Ext. M-6.

15. Shri G. Prasad, Advocate appearing for the workman has submitted that if the reference is regarding the stoppage of work of a munshi of the East Kapasara colliery it is not open to the Tribunal to enter into the question that he was not a munshi but was working on commission and was paid accordingly. He has further contended that the Tribunal cannot enlarge the ambit of dispute and the Tribunal as to confine its adjudication to the pleadings and issues arising therefrom. His argument further is that when a particular dispute has been referred to the Tribunal for adjudication as in this case the Tribunal cannot direct itself to the question whether this stoppage was on the ground of his being an inductee. In support of his contention he has referred to several decisions of the Supreme Court reported in SCLJ, Vol. 6 U. P. Electric Supply Co. Ltd. v. Workmen of Messrs S. M. Choudhury & another, Page 3906, SCLJ Vol. 9 Jaipur Udlog Ltd. V. Cement Work Karamchari

Sangh, Sahu Nagar, Page 267, SCLJ Vol. 7 M/s. Parry & Co. Ltd. v. P. C. Lal Judge of the Second Industrial Tribunal, Calcutta Page 496 and 1977 Lab. I. C. Lachman Das and another v. M/s. Indian Express Newspapers (Bombay) Pvt. Ltd. and another, Page 823.

16. There can be no dispute with the proposition of law relied upon by the learned Advocate. The Tribunal cannot enlarge the scope of the dispute nor it can substitute any dispute in place of the one referred to it for adjudication nor it can add a fresh dispute not given in the schedule, and it has to confine itself to the pleadings of the parties and the issues arising therefrom. But none of the cases referred to above has laid down the principle of law that in order to adjudicate the dispute raised in the reference the Tribunal cannot consider incidental matters relating to the dispute. In the instant case the schedule of reference refers to the stoppage of work of the concerned workman working as a munshi. The employers have raised a point that he was never in the service of the company and was an inductee. In order to adjudicate the dispute properly it will certainly open to the Tribunal to examine the respective cases of the parties and then give an appropriate award. If Mr. Prasad wants to emphasise that it has to be taken for granted that the concerned workman was a Munshi and the Tribunal cannot consider the stand taken up by the employers then there would be no dispute at all and the Tribunal has to give an award without going into the merits of the case and grant the reliefs claimed by the concerned workman. Therefore, what the Tribunal has to do is to confine itself to the respective case of the parties and then to give an award in terms of the reference.

17. It is admitted by WW-1, the concerned workman that his brother Shri Om Prakash Uppal was working in the East Kapasara colliery at the time of take over and is still in service of that colliery. He further admits that the colliery was under the Banga Laxmi Coal Co. and the owner was Asha Bhai Patel, that Gurudas Ram Kapahi was the lessee and Nandlal Nair, Sala of Gurudas Babu was his employee. Shri S. C. Roy who is working as overman since 1971 in the Kapasara colliery has stated that Shri Nandlal Nair was looking after the colliery on behalf of his brother-in-law and Omi Uppal, brother-in-law of Nandlal Babu, was looking after the colliery affairs on his behalf. The concerned workman being the brother of Omi Uppal there is nothing strange if at the time of take over he managed to get a berth in the colliery by some means or the other with the help of his brother and brother-in-law, Shri Nandlal Nair. No documentary evidence can be expected on this point and we have to rely on the oral evidence and the connected circumstances to accept this part of the case of the management.

18. It is admitted by WW-1 that Shri S. C. Roy, MW-1, was the overman and Shri N. G. Das, MW-2, was the surveyor and Kuldip was the Munshi in 1972 when the incline in Kapasara colliery was closed and quarry No. 2 started. In that view of the matter evidence of MW-1 and of MW-2 deserves consideration and must be given due weight.

19. We get from the evidence of WW-1 that he is a resident of Punjab and before his employment on 30-6-1972 he had come to this colliery only once in 1968 or 1969. His present age is 28 years, in 1968 or 1969 he must be aged about 20 years and at the time of his alleged appointment about 22 or 23. Nothing has been brought on record to show that there was any advertisement by the colliery for employment of a Munshi and in response he applied and was appointed. His employment in this circumstance was only possible because he was related to Shri Nandlal Babu and his brother was already in employment there. Had it not been so, he could not have come to the East Kapasara colliery the way from Punjab. This is another circumstances which supports the case of the management.

20. WW-1 has admitted that except, Ext. W-1, the letter of appointment dated 28-6-1972 he has no other paper to show that he had any concern with the East Kapasara colliery at that time. Ext. M-4 is the form B register of the year 1973 in which his name does not find place. Ext. M-3 is the wage register wherein also his name does not transpire and Ext. M-5 is the bonus register where his name is at Page 189 and he has received bonus for one quarter. In cross-examination he says that one Mr. Dutta used to write

the bonus register and he was aware of the job on which he was appointed. But the register shows that all the entries are blank. It means that the register was manufactured in haste with respect to this workman and consequently all relevant data are missing. Mr. Dutta being aware that he was working as a Munshi could not have failed to mention it and also the date of his employment if actually he was working in the East Kapasara colliery as a Munshi w.e.f. 28-6-1972. This is also a circumstance which supports the case of the management.

21. The other papers that have been filed on his behalf are all unilateral and cannot by any stretch of reasoning show that the concerned workman was working in the East Kapasara colliery. If P.F. deductions were made from his wages he must have been allotted a Provident Fund No., but admittedly it is not there. Therefore, merely his oral evidence that he was a member of the P. F. Scheme and deductions were made from his salary on that account cannot be of any help. This is also a circumstance which goes against him and cannot be overlooked.

22. According to the case of the employers he was not working as a Munshi rather was working on commission for overburden removal. Exts. M-1, Ext. M-1/1 as well as Ext. M-1/2 are the relevant documents in this regard. Exts. M-1 and M-1/1 are the two slips issued by MW-1 to the concerned workman for issue of 5 pieces and 7 pieces respectively of cane baskets from the store for over burden removal. Ext. M-2 shows that an advance of Rs. 200/- against the dues on account of commission was given to the concerned workman and Hiralal Kapahi and the concerned workman had put his signature on the back on the receipt. These documents, in my opinion, lend support to the case of the management that he was not working as Munshi in East Kapasara colliery from before take over. To me it appears that his case that he had gone on leave on 14-6-1973 and then fell ill and remained absent till 5-2-1974 is a cock and bull story fabricated for the purpose of this case. The original leave application is not here nor there is its copy. It appears that it was on 5-2-1974 that the concerned workman could get hold of Ext. W-1 and thereafter started sending applications and being not satisfied reported to the Labour Enforcement Officer for non-payment of wages and then on his advice applied for being recruited to a post of category I.

23. Thus, on one side there is complete lack of evidence either oral or documentary, on the other, there are materials both oral and documentary, to establish that the concerned workman was never in the employment of the East Kapasara colliery and his entire claim is unfounded. It being admitted that his brother is still in service of this very colliery he could have atleast called him to support his case. It seems that perhaps he was not sure if his brother would be helpful in the matter and therefore did not take that risk. From the evidence on record and the circumstances arising out of the same, the case of the management seems more probable and that being so he does not acquire any right under the Coal Mines (Nationalisation) Act, 1972 and cannot claim any relief. There being no relationship of employer and employee the question of stoppage of work by the management of Kapasara colliery in which the East Kapasara colliery has merged does not arise and Shri Balaram Kumar Uppal is entitled to no relief.

This is my award.

S. R. SINHA, Presiding Officer

[No. L-20012/154/75-D. III(A)]

S. H. S. IYER, Desk Officer

New Delhi, the 28th January, 1978

S.O. 480.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur (Madhya Pradesh) in the industrial dispute between the employers in relation to the management of Western Coalfields Limited, Parasia and their workman, which was received by the Central Government on 24th January, 1978.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—
CUM-LABOUR COURT, JABALPUR (M.P.)
CAMP AT CHHINDWARA (M.P.)**

Case No. CGIT/LC(R)(24) of 1977.

PARTIES :

Employers in relation to the management of Western Coalfields Limited, Parasia and their Workman represented through the Secretary, M.P.R.K.K.M. Sangh (INTUC) Chandametta, Distt. Chhindwara (M.P.).

APPEARANCES :

For Workmen—Shri S. S. Bharadwaj, Secretary.
For Management—S/Shri Pavgi and G. S. Kapur, Dy. Chief Personnel Officer.

INDUSTRY : Coal Mine **DISTRICT :** Chhindwara (M.P.)

Dated : January 13th, 1978

AWARD

This is a reference made by the Government of India in the Ministry of Labour vide its Order No. L-22012(1)/77-D-III(B)/D-IV(B) Dated 24-12-1977, of the following industrial dispute for adjudication by this Tribunal :—

“Whether the action of the management of Western Coalfields Limited Pench Area, Parasia in reverting Shri S.K. Chakravarty from the post of Office superintendent to that of Head Clerk in Burkui Hospital of Western Coalfields Limited is justified ? If not, to what relief is the concerned workman entitled ?”

2. Notices were issued to the parties for filing their respective written statement today. Instead of filing the written statements the parties have filed a settlement dated 10-1-1978 terms of which are reasonable and accepted by both the parties. Award is given in terms of the settlement which shall form part of this award.

S. N. JOHRI, Presiding Officer
13-1-78.

MEMORANDUM OF SETTLEMENT

PARTIES :

Representing management : Shri G. S. Kapur, Dy. Chief Personnel Officer, Western Coalfields Ltd. Pench Area, P. O. Parasia.

Representing workmen : Shri S. S. Bharadwaj, Secretary, M.P. R.K.M. Sangh (INTUC) Chandametta.

Short Recital of the case

The Ministry of Labour, Govt. of India, vide Order No. L-22012(1)/77-D-III(B)/D-IV(B) dated 24-12-77, referred the following dispute to the C.G.I.T. cum Labour Court, Jabalpur :—

“Whether the action of the management of Western Coalfields Ltd., Pench Area, Parasia, in reverting Shri S.K. Chakravarty from the post of Office Sundt, to that of Head Clerk in Burkui Hospital of Western Coalfields Ltd. is justified ? If not, to what relief is the concerned workman entitled ?”

Whereas the parties, above mentioned desired to settle the above dispute amicably amongst themselves, without prejudice to their respective stands, discussed the dispute at length and reached. Terms of Settlement as under :—

Terms of Settlement

1. Agreed that the management shall designate Shri S. K. Chakravarty as Office Sundt, with effect from 1-1-1978 and fix him in Technical Gr. 'A' of N.C. W.A. (592-992) with effect from 1-1-78 giving two additional increments with effect from 1-1-78 and one more additional increment from 1-7-78 in full and final settlement of the dispute in the said reference. He will be entitled for his next annual increment from 1-7-79.

2. The workman on their part agree that they shall not have any claim/dispute for arrears etc. for the part period.
3. That both the parties shall file this settlement before the C.G.I.T. cum Labour Court, Jabalpur requesting for an Award in terms thereof.

Representing workmen
(S. S. Bharadwaj)

Representing management
(G.S. Kapur)

Secretary,
M.P.R.K.K.M. Sangh (INTUC)
Chandametta,
Distt. Chhindwara (MP)
Dt. 10-1-1978

Dy. Chief Personnel Officer,
Western Coalfields Ltd.,
Pench Area, P.O. Parasla,
Distt. Chhindwara (M.P.)

Witnesses :

1. Sd/-
2. Sd/-

S. N. JOHRI, Presiding Officer
13-1-78.

[No. L-22012(I)/77-D.III(B)/D-IV(B)]

New Delhi, the 1st February, 1978

S.O. 481.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur in the industrial dispute between the employers in relation to the management of Newton Chickli Colliery of Coal Mines Authority Limited and their workmen, which was received by the Central Government on 30th January, 1978.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)**

Case No. CGIT/LC(R)(14) of 1976

PARTIES :

Employers in relation to the management of Newton Chickli Colliery of Coal Mines Authority Limited and their workmen represented through Bhartiya Koyla Khadan Mazdoor Sangh, P.O. Chandametta, Distt. Chhindwara (M.P.).

APPEARANCES :

For Workmen ... Shri S.S. Shakarwar,
Advocate.

For Management ... Shri P. S. Nair, Advocate

INDUSTRY : Coal Mines **DISTRICT :** Chhindwara
(M.P.)

Jabalpur, the 19th January, 1978

AWARD

This is a reference made by the Government of India in the Ministry of Labour vide its Order No. L-22012/22/75-D. III-B Dated 25th November, 1976 for the adjudication of the following industrial dispute :—

"Whether the action of the management of Newton Sub-Area of Coal Mines Authority Ltd., Pench Area Parasla in relation to their Newton Chickli 'B' Colliery in not regularising S/Shri Savir S/o Sheikh Hayat, Sheikh Rafique S/o Sheikh Hayat, and Jafid S/o Niljan as timber mistries even though they were working as timber mistries previously and regularising other workmen as timber mistries having same length of service as that of the workman concerned in the dispute is justified? If not to what relief the workmen are entitled to?"

2. It is not now disputed that Sheikh Jafid was initially appointed on 1-2-1972 while the other two entered in the service on 13th March, 1973. All the three were initially inducted as General Mazdoors Category I but from 15-8-1973 they were promoted as Timber Mazdoors Cat. II. Since then their designation remained unchanged till as per private agreement between the concerned workmen and the management signed on 22-1-77 they were promoted as Timber Mistries with effect from 15-1-77. They filed the said agreement

and moved applications that the award in the case may be given in terms of the same but the Union appeared at a later stage and raised contest about the genuineness of the agreement.

3. The case of the Union is that these workman continuously worked as timber mistries for the last several years hence they should be fixed in Category IV in the posts of Timber Mistries with effect from 1-5-1973 having regard to the nature of duties that were performed by them during the course of all these years. Promotions granted to others in preference to these workman were not proper. With respect to the agreement it is alleged that the agreement was vitiated because the consent of the concerned workman and their signatures were obtained under duress, misrepresentation and fraud.

4. The management has challenged the validity of the reference on the ground that no dispute was directly raised by the sponsoring Union with the management and therefore no industrial dispute came into existence. More over the sponsoring Union had no representative capacity nor had any member in that colliery. No resolution was ever passed by the members of the Union authorising the President to raise the industrial dispute in the matter. Thus the dispute which was essentially the individual dispute never assumed the shape of industrial dispute. In the absence of the industrial dispute no reference could be valid. The agreement with the workmen was not vitiated either on account of duress or misrepresentation or fraud as alleged. The workman concerned appended their signatures to the agreement with freewill and not only accepted the contents after fully understanding them but also acted upon the same. It is true that they were at times deputed to work as Timber Mistries for short durations but the D.P.C., when it considered their case along with others, did not find them fit for promotion hence could not be promoted while others below and above them in the seniority list were found fit and promoted to the Category IV post.

5. The legal issues raised by the management have no force. Bhartiya Koyala Khadan Mazdoor Sangh, the sponsoring Union, is proved to be having some membership vide the statement of Shri Sachdeva, Superintendent of Mines (M.W.I) who had been the Manager of that Colliery, for sometime during the relevant period. B.K.K.M. Sangh is not a majority Union but even a minority Union can sponsor a dispute and if the Union of an industry raise a dispute other formalities of resolution etc. need not be brought on record. This point has thus no force.

6. There is, of course, no allegation that the sponsoring Union raised the dispute with the management, but when the management participated before the conciliation officer and denied the claim without raising such an objection an industrial dispute came into existence before the reference was made. The management is thus now estopped from alleging that industrial dispute never came into existence before the reference. This point has also thus no force and the reference is held to be valid.

7. The workmen entered into an agreement with the management soon after the reference was made. They appeared before the Tribunal and moved applications that they did not want to press their claims in view of the agreement. They wanted the Tribunal to give award in terms of the agreement. Thereafter none of the three workmen ever appeared before this Tribunal for challenging the validity, genuineness or voluntariness of the agreement. Even the Union did not raise any allegation against the agreement in its written statement which had been filed more than five months after the filing of the said agreement. The Union was in know of it and the agreement came to be obliquely mentioned in the pleadings of the written statement. It was for the first time in the rejoinder that the vague allegations of coercion, undue influence and fraud were raised by the Union without giving any particular. Such a belated after thought plea is not sufficient to undermine the genuineness and voluntary nature of agreement.

8. Thereafter for the first time when one of the three workmen was put in the witness box it was specified that the workers were threatened that if they did not sign the agreement the management will come heavy upon them. Thus in the witness box the pleas of undue influence and fraud were dropped and only coercion came to the forefront. All the three pleas were taken in the rejoinder unmindful of the fact that their manner of operation is at times mutually

exclusive, inasmuch as undue influence and fraud require closer relationship of confidence which is exploited while coercion requires an element of superior position which may be utilised for extending the threat of punishment or other injury to the person in inferior position directly or indirectly to one in whom he is interested. Neither any such relationship is alleged nor the belated solitary statement of one of the three workmen, has any worth in the absence of particulars of the said pleas in the pleadings in total disregard of the principle of natural justice incorporated in 0.6 R. 4 of C.P.C. that such particulars of fraud, undue influence or coercion should be given in the pleadings as may not take the other party by surprise. In the present case pleading of the rejoinder were drafted by an Advocate of sufficient standing. Such vague pleadings deserve to be rejected as honest.

8. As for the alleged coercion specified at the evidence stage, two of the workmen are the brothers of Sheikh Eklime (W.W.2) who had been dismissed for assaulting the Manager. Such persons are hardly likely to succumb to any such coercion. The plea of the Union under the circumstances has no leg to stand specifically when the concerned workmen have not only signed the agreement but have also accepted fruits of the same. They are now estopped from challenging its validity and I am inclined to hold that the agreement was free and fair.

9. It was free because it came into existence with free will of the contracting parties and it was fair because mere intermittent working does not qualify a workman for being selected to a promotion post. The opinion of the D.P.C. that these workmen were not found suitable can neither be challenged nor it can be lightly ignored. Promotion is a managerial function and as neither malafides nor unfair labour practice nor victimisation on account of trade union activities, has been alleged or proved in the present case, this Tribunal has no jurisdiction to sit over the decision of the management in appeal or order promotion of these workmen from some back date on which date they were not found fit by the D.P.C. It was held in *Hindustan Lever Ltd. Vs. Workmen* (1973 SCLJ 321) that :—

"In the absence of the findings of malafides or victimisation of the workman, concerned for trade union activities or any unfair labour practice, Labour Court could not arrogate to itself the promotional functions of the management."

In view of the above legal position and in the absence of necessary pleas and evidence as discussed above, this Tribunal would not be in a position to grant the benefit of promotion to the concerned workmen. Under such circumstances, the agreement envisaging granting of promotional benefits to the concerned workmen from 15th January, 1977 cannot but be said to be fair and beneficial to them.

10. The agreement was accepted and acted upon by both the real parties to the dispute even though that agreement did not amount to a settlement within the meaning of Section 2(p) of Industrial Disputes Act because it did not comply with the prescribed formalities. The said agreement thus extinguishes the cause of action so far as these workmen are concerned and the Union cannot be allowed to hammer out from their settled individual dispute an industrial dispute for tempering with the industrial peace. Such an industrial dispute arising out of the individual dispute of two or three workmen, has to be distinguished from industrial dispute of wider impact when it relates to the general questions like rate of bonus etc. and engulfs in its role a large number of workmen. The former type of industrial dispute dies with the genuine death of the individual dispute while the latter type of the industrial dispute cannot be nipped into the bud by a handful of individual workmen.

11. In *State of Bihar Vs. D. N. Ganguly* (IV SCLJ 2248 at 2254) it was stated that :

"It would be very unreasonable to assume that industrial tribunal would insist upon dealing with the dispute on merit even after it has been informed that the dispute has been amicably settled between the parties."

As such after the agreement, which completely liquidates the dispute, there remains no point in beating the dead 260GI/77--11

horse. The Supreme Court in the aforesaid case of *D. N. Ganguly* further went on to say on the same page that :—

"We have already indicated that amicable settlements of industrial disputes which generally lead to industrial peace and harmony are the primary objects of the Act."

Thus the object of the Industrial Disputes Act will be served in upholding the agreement rather than in digging out the debris of bruised relationship between the parties.

12. In *Amalganated Coffee Estate Ltd. Vs. Their workmen* (VI SCLJ 3672) workmen of some of the Estates entered into an agreement with the management which was held to be fair. While some of the participating unions objected to the binding character of such settlements the Supreme Court held that the settlement was binding on those who have acted upon it and accepted the payment (later on the benefit was extended to all the unions for the sake of uniformity). The case was considered by the Supreme Court in *Jhagrakhand Collieries Ltd. Vs. G. C. Agarwal, Central Government Industrial Tribunal Jabalpur* (1975 SCLJ 343) and there it was observed at page 353 that—

"An appeal being a rehearing of the case in *Amalganated Coffee Estate* case, the jurisdiction of the court to decide the dispute in just manner was so extensive with that of the Tribunal to judge which was referred under Section 10(1). This Court found, in agreement with the report of the Tribunal, that the settlement arrived at between most of the unions representing most of the workmen and the management, was valid and conducive to industrial peace and therefore, it was just and appropriate to decide the dispute and dispose of the appeal in terms of the settlement."

In this case also my findings, as given above, say that the agreement is fair and conducive to industrial peace, hence I am of the view that the award should be given in terms of the agreement.

Award is therefore, given accordingly. Agreement dated 22-1-1977 shall form part of the award.

S. N. JOHRI, Presiding Officer.

19-1-1978

Ex. M-41.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, JABALPUR

Case No. CGIT/LC(B)/(14)/1976

Sheikh Sabbir & 2 others ... Applicants

Vs.

Sub Area Manager, Newtown Sub Area .. Non-applicants.

The parties beg to submit as under :

1. That the parties have negotiated and settled the dispute between themselves on the following terms :—

1. That the management will give category IV with a basis of Rs. 12.75 to Jafid, Sk. Sabbir & Sk. Rafiq from 15-1-1977 as Timber Mistries.

2. That the workmen withdraw all other claims against the Management.

PRAYER

It is therefore prayed that this Hon'ble Court be pleased to give an award in terms of the said settlement.

APPLICANTS :

1. (Sk Sabbir s/o Sk. Hayat)
Sd./-

2. (Sk Rafique s/o Sk. Hayat)
Sd./-
3. (Sk. Jafid s/o Sk. Nijam)
Sd./-

NON-APPLICANTS :

Sd./-

22/1/1977.

SUB AREA MANAGER
NEWTON SUB AREA.

S. N. JOHRI, Presiding Officer.

19-1-1978.

[No. L-22012(22)/75-D. III(B)/D-IV(B)]

New Delhi, the 3rd February, 1978

S.O. 482.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur in the industrial dispute between the employers in relation to the management of Ballarpur Colliery of Western Coalfields Limited, District Chanda (Madhya Pradesh) and their workmen, which was received by the Central Government on 1st February, 1978.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M. P.)

Case No. CGIT/LC(B)(26) of 1968.

PARTIES :

Employers in relation to the Management of Ballarpur Colliery, Post Office Ballarpur, District Chanda (Madhya Pradesh) and their Workmen represented by the Vice-President, Samyukta Khadan Mazdoor Sangh, Chanda.

APPEARANCES :

For Employer.—Shri P. S. Nair, Advocate.

For Workmen.—Shri P. K. Thakur, Advocate.

Coal Mine.

INDUSTRY : Coal Mine. DISTRICT : Chanda (M. P.)

Jabalpur, the 25th January, 1978

AWARD

This is a reference made by the Government of India in the Ministry of Labour vide its order No. 5/59/67/LRII dated the 22nd March, 1968 for adjudication of the following industrial by this Tribunal.

“Whether the management of Ballarpur Colliery, Post Office Ballarpur District Chanda (Madhya Pradesh) was justified in retrenching the following ten Coal-cutters without taking into account their past service prior to April 1966, and without payment of full retrenchment compensation :

SCHEDULE

Sl. No. Name of the workman.

1. Shri Sunker Ramaya
2. Shri Galepelli Purga Sailu.

1. No. Name of the workman

3. Shri Sunker Rajam
4. Shri Sunker Yankati
5. Shri Rai Pocha Pocha
6. Shri Jog Yalla
7. Shri Sunker Pocham
8. Shri Panam Samaya
9. Shri Chirkutota Odeloo and
10. Shri Bolli Pocha Bhana.

If not, to what relief are the workmen entitled ?

- (2) Whether the Management of Ballarpur Solliery, Post Office Ballarpur, District Chanda (Madhya Pradesh) was justified in terminating the services of the following eleven workmen, on the ground of their being found medically unfit :—

S No.	Name	Designation
1.	Shri Malla Narsa	Trammer-cum-Loader
2.	Shri Endnoor Yella	Coal Cutter
3.	Shri Samaya Ramaya	Trammer
4.	Shri Gundet Narsalya	Trammer-cum-Loader
5.	Shri Gaddam Mallaya Pocham	Trammer-cum-Loader
6.	Shri Kannor Raja Pocha	Coal Cutter
7.	Shri Kumar Pocha	Coal Cutter
8.	Shri Kalwal Raja Hanmantoo	General Mazdoor
9.	Shri Sakharan Cano	Timber Mazdoor
10.	Shri Bandal Lachma	Dresser
11.	Shri Lachman Nago	Dresser

If not, to what relief are the workmen entitled ?

2. It is not disputed that workmen Coal-cutters at Serial Number 1 to 10 of the Schedule No. 1 of reference were found surplus on account of mechanisation of mines, hence their services were terminated after giving them notice pay and some retrenchment compensation. The second set of workmen mentioned at Serial Number 1 to 5 of the Schedule No. 11 were reported to be temporarily unfit for duty by the Colliery Doctor and were therefore served with a notice and stopped from coming to the work. They were advised to undergo treatment and produce fitness certificates when they shall be taken back on duty. Thereafter they never reported back to duty with a certificate of fitness from the Medical Officer of the Colliery. Their contract of service was never terminated but they themselves did not approach the Management thereafter. The third set of the workmen at Serial Number 6 to 10 of Schedule No. II were reported by the Colliery Doctor to be permanently disabled from working in the Colliery. Hence their services were terminated. Laxman Nago Serial Number 11 of the Schedule II is said to have resigned from service when he was also reported to be temporarily medically unfit to work in the mine. During the pendency of this reference for a long period Sri Jog Yalla (Sl. No. 6) of Schedule I, Sri Gundet Narsalya (Sl. No. 4), Sri Kumar Pocha (Sl. No. 7) and Sri Bandal Lachma Dresser (Sl. No. 10) of the Schedule II have died. No successor has come forward to take up their claim. In spite of the fact that the dispute was sponsored by the Union my predecessor vide order dated 30/11/1968 impleaded all the concerned workmen as parties to this reference.

3. The case of the Union is that the Colliery Doctor was a tool of the then management and these workers of Schedule II of the reference could not be stopped from their work simply on his certificates. In any case they should have been referred to some expert and alternatively

they should have been provided with some other job not involving their disability. The resignation of Sri Lachman Nago, Dresser was fraudulently obtained from him. He was made to sign a paper when he demanded an advance and that paper was converted into a resignation. The other workmen mentioned in the first Schedule of the reference had never participated in the said strike of 1966. They were prevented by the striking workmen from going to duty and the management itself asked them not to risk their life specially because they could not be sent into the mines as the lifts were not working on account of the participation of all the workers of the Mechanical Department in that strike. In fact as soon as the strike was over they were taken back on duty and the payments were made to them. No notice of termination was served upon them. As such their services never came to be snapped and the whole of their service period should have been taken into account for computing retrenchment compensation.

4. The case of the erstwhile management of Ballarpur Colliery Company is that the services of the workmen at Sl. Nos. 1 to 5 of Schedule No. 2 were never terminated. They themselves did not turn up for service nor they produced the fitness certificates as they had been advised when they were stopped from the work. With respect to the workmen at Sl. Nos. 1 to 10 of Schedule No. 2 the management has denied that it was under any duty to disbelieve the certificates of its Medical Officer or that he was a tool in the hands of the management or the management was under a duty to send them to some other expert or the management was under an obligation to provide them with alternative jobs. The service of Sri Lachman Nago at Sl. No. 11 of Schedule No. 2 of the reference was never terminated. He had voluntarily resigned from service and that resignation was accepted. The workmen in Schedule No. 1 were properly retrenched because they had become surplus on account of mechanisation of mine. Proper notice pay and retrenchment compensation were paid to them. Since they took part in the illegal strike in the year 1966 due to which their services were terminated and since after the strike they were given fresh appointments, their services prior to 1966 were not taken into account for payment of retrenchment compensation. The Union had no representative capacity and the reference was bad because it presumed Ballarpur to be Madhya Pradesh. Misjoinder of dispute and cause of action is also alleged.

5. The successor management Western Coalfields Limited, has adopted all the pleas raised by the erstwhile management and has further added that no industrial dispute came into existence because prior to reference the workmen or the union never made a demand with the then management. Participation in conciliation proceedings before the Assistant Labour Commissioner could not create an industrial dispute. The reference is alleged to be different from the dispute as it was raised before the Conciliation Officer. In any case the Western Coalfields Limited claims complete exoneration from liability on account of the protection provided to it by the various provisions of the Coal Mines Nationalisation Act.

6. Writ Petition No. 1123 of 1968 was filed by the erstwhile management challenging the validity of the reference on the aforesaid grounds which have been raised by it in its written statement. The High Court however decided on 8-1-75 that the preliminary issues so raised be decided by the Tribunal at the time of final hearing on merits.

7. One of the points so raised by the erstwhile management is that the reference mentions Ballarpur Colliery to be situated in Chanda district in Madhya Pradesh which is factually incorrect as Chanda district is situated in Maharashtra and not in Madhya Pradesh. It was before the reorganisation of States that Chanda district was in Madhya Pradesh. Perhaps that is the cause of the creeping in of the clerical error. It is not clear in what respect the jurisdiction of this Tribunal or validity of the reference is being challenged on this point. This error in description is incapable of misleading or confusing any one about the nature or place of the dispute or about the parties to it. There is neither Ballarpur Post Office nor Chanda district in Madhya Pradesh. On the other hand, it is undisputed that Ballarpur Colliery, Post Office Ballarpur district Chanda is situated in

Maharashtra. Parties have correctly understood that the reference in fact relates to the Colliery situated in Maharashtra. The fact that the copy of the reference was endorsed to Regional Labour Commissioner, Bombay and Asstt. Labour Commissioner Nagpur and the fact that along with it copy of the failure report of conciliation proceedings submitted by Asstt. Labour Commissioner, Nagpur, were forwarded, are vocal enough to show that in fact the dispute so referred relates to Ballarpur Colliery of Chanda district situated in Maharashtra. Such an innocuous clerical error of mentioning Madhya Pradesh instead of Maharashtra which is not capable of causing any confusion about nature or place of dispute, is not capable of either introducing an element of invalidity in the reference or infirmity in the jurisdiction. Similar clerical error of writing 'Ranchi' for 'Patna' in the order of reference was held to be innocuous by the Supreme Court in Dabur (Dr. S. K. Burman) Pvt. Ltd. Deoghar Bihar v. The Workmen (7 SCLJ 466).

8. The point so raised purports to obliquely suggest that since the dispute arose in Maharashtra, the reference could not be made to the Tribunal situated in Jabalpur in Madhya Pradesh. Industrial Disputes Act does not envisage jurisdictional restriction arising out of territories so far as references are concerned. Any reference of any dispute arising at any place could be referred to any Tribunal situated at any other place in the country. There is no territorial division of jurisdictions amongst the few Industrial Tribunals situated in this country. The point has thus no force.

9. The second point raised by the erstwhile management is of misjoinder of the causes of action. This point again has no force. The law does not contemplate that the dispute of only a single workman should form part of one reference. This plea ignores the concept of collective bargaining in which very often more than one demands from the subject matter of discussion. In that sense the law of misjoinder of causes of actions or of parties as understood in civil law, has no place in industrial adjudication. This point is again answered against the management.

10. The third point raised by it is about the representative capacity of the union. Assistant Labour Commissioner has certified that the union had the membership and representative capacity. The workman Laxman Nago has deposed that all of them were the members of that union. Mazhar, General Secretary filed an affidavit on 27-7-68 and with it he filed membership receipt books and the register. He was tendered for cross-examination on the affidavit. He has stated on oath that the union had the membership at the relevant time and was thus a representative union. As against this well corroborated evidence held denial of its representative capacity made by Shri Ram Kishore Singh (M.W. 1) carries no weight. The point has thus no force and is decided against the management.

11. The successor management, Western Coalfields Ltd., has also raised two preliminary objections. The first objection is that the reference was bad because no industrial dispute had come into existence prior to it as no demand was raised by the union with the management. The erstwhile management participated in the conciliation proceedings but did not raise any objection before the Assistant Labour Commissioner nor it ever raised any such objection before the Tribunal that the Union had not raised the dispute before it prior to the reference. This means that the union had in fact raised the dispute before it and that amounts to tacit admission that industrial dispute had in fact come into existence prior to the reference. When Ballarpur Colliery Company does not say that the dispute was not raised before it by the union, the successor company, Western Coalfields Ltd., cannot come forward to say that it was in fact not raised before that Company. Shri Ram Kishore Singh (M.W. 1) who is now Senior Personnel Officer in Western Coalfields Ltd. was examined by it for proving that the union had raised no demand with the erstwhile management before the reference was made. He has not deposed as to what office he occupied with the erstwhile management at the relevant time and was it impossible for the demand escaping his notice if such a demand was made. The papers exhibited by the management show that Shri Jha was the Manager. The demand should have been made to him. He has not been examined. This is thus no effective rebuttal of the inference drawn above. The point is decided accordingly.

12. Western Coalfields Ltd. has raised another objection that the dispute raised was materially different to the dispute referred for adjudication so far as the case of 10 coal cutters is concerned. The failure report of the Asstt. Labour Commissioner received with the reference and the pleadings of the union show that the dispute raised was about the quantum of retrenchment compensation, whereas the management took the stand that the services of these coal cutters were terminated at the time of and for their participation in the illegal strike in April 1965 and they were given fresh appointments thereafter hence when they were retrenched as surplus in August 1967 only their one year service from April 1966 to August 1967 was counted for computing the retrenchment compensation and only that compensation was paid to them, the Union's stand was that full compensation calculated on the basis of full length of continuous service including the one prior to the strike should have been taken into consideration for calculating the retrenchment compensation and only such amount should have been paid to them. It was thus a money dispute. Validity or jurisdiction of retrenchment was never challenged.

13. The reference however speaks of 'justification of retrenchment' and treats the question of quantum of compensation as a closed topic by presuming that the compensation paid was not proper. The words 'and without payment of full retrenchment compensation' used in the reference presuppose that the payment made was not proper. Thus the reference predecides the real dispute and projects that one for adjudication which had never come into existence.

14. In *Sindhu Resettlement Corporation Ltd. Vs. I. T.* [1968 (7) SCLJ 792] case also when the dispute was simply of retrenchment compensation the reference sought adjudication on the question of reinstatement also, the Supreme Court held that the Government had no jurisdiction to make such a reference and the reference was held to be invalid and the award was quashed. On that analogy, I am inclined to hold that the reference relating to coal cutters is invalid and Government of India has acted beyond its jurisdiction to make such a reference.

15. Similar is the position of the reference relating to *Shri Laxman Nago* workman No. 11 of the Second Schedule. The papers of conciliation proceedings including the failure report as also the pleadings show that Union's case was that *Laxman Nago* has not resigned, his resignation letter was fabricated after obtaining his thumb impression on a white paper. Management's case was that after he had been noticed to report back on duty after proper treatment and removal of disability he submitted his resignation voluntarily and that was accepted by the management. Neither party said that his service was ever terminated by the management. The dispute was thus not of termination or its justification but of the fabrication of the resignation tendered by him. The reference on the other hand seeks adjudication on the termination of his service without saying anything about the real dispute. I hold that the reference in respect of *Laxman Nago* is also invalid in law on the analogy of the aforesaid *Sindhu Resettlement Corporation's* case.

16. This brings us to the case of *Mafla Narsa* and other four workmen (nos. 1 to 5) in second Schedule. Case of both the parties was that the colliery doctor declared them unfit hence they were served with notices advising them to take treatment and report back for duty after getting themselves fit for work. Union's case was that service of such a notice at the instance of colliery doctor was not justified. They should have been referred to some expert. None of the parties pleaded that their service was ever terminated by the management. Stoppage of work under such a notice was alleged to be unjustified. This stoppage for a temporary period with the object of taking them back in service after being cured of the disability could not amount to retrenchment because there was no intention to snap the ties of employer and employee for all times to come, and further because it was only on account of continued ill health that they were stopped and such stoppage from work cannot be taken to be termination of service as it squarely fell within the mischief of the exception carved out in Clause (c) of Section 2(oo) of I.D. Act. Even then the reference speaks of the justification of their retrenchment. This part of the reference is again bad on the strength of the case discussed above.

17. Now we are left with the last part of the reference relating to *Shri Kannoora Raja Pocha* and other four workmen (Sl. nos. 6 to 10 of the second Schedule of the reference). Their service was terminated because they were found permanently disabled and unfit to work in the colliery according to the report of the colliery doctor. Union's case is that they should have been referred to some expert as the Colliery doctor was only a tool in the hands of the management and further that they should have been provided with some alternate job. There is no such provision in the Standing Orders. There is nothing to show that the management prevailed upon the doctor to give any such report. It is not alleged why the management was interested in so removing them from service. There is no evidence that there were alternate jobs available or that they were fit to handle some alternate jobs. There is nothing to show that the report of the colliery doctor was incorrect and should be disbelieved. Neither the union made efforts nor the workmen tried to obtain the certificate of some other expert which could have falsified the opinion so expressed by the colliery doctor. Thus Union's case has no legs to stand.

18. This part of the reference is thus answered accordingly while the rest of it is held to be invalid and without jurisdiction.

19. Before departing with the case I would like to say that the workmen have suffered infinitely because of the laws delays in the case and, as appears from the evidence of those who could somehow present themselves before the Tribunal for giving evidence, that they are facing the worst type of financial adversity. It will thus be not out of place to recommend that *Western Coalfields Ltd.* should try to accommodate their able bodied children, if any, by giving them some suitable employment so that the families may not continue to suffer the great hardship which they have suffered for the last so many years.

S. N. JOHRI, Presiding Officer
25-1-1978.

[No. 5/59/67/LR-II/D-IV(B) (Pt.-file)]

BHUPENDRA NATH, Desk Officer

New Delhi, the 8th February, 1978

S.O. 483.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Jabalpur in the industrial dispute between the employers in relation to the management of Punjab National Bank, Bhopal and their workmen, which was received by the Central Government on the 24-1-1978.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R) (14) of 1977

PARTIES :

Employers in relation to the management of Punjab National Bank, Bhopal and their workmen represented through the Madhya Pradesh Bank Employees' Association City Post Office Building Indore (M.P.)

APPEARANCES :

For Management—Sri R. P. Raizada, Senior Personnel Officer.

For Union—Shri R. V. Panchaity, General Secretary.

INDUSTRY : Bank DISTRICT : Bhopal (M.P.)

Dated, 16th January, 1978

AWARD

This is a reference made by the Government of India in the Ministry of Labour vide its Order No. L-12012/29/77-D.IIA dated 1-8-1977, of the following industrial dispute for adjudication by this Tribunal :

"Whether the action of the management of Punjab National Bank, Bhopal in fixing basic pay of Sri T. C. Rathore, Cahier-cum-Godown Keeper, Khar-gone branch of the Bank at Rs. 190/- per month, on

his appointment on probation on 28-10-1971 without giving the benefit of his past service towards increment is justified? If not, to what relief is the workman entitled?"

2. Following service particulars of Sri Rathore are not disputed :

He served—

from 6-11-1967 to 14-8-1969 and then 11 days break.

from 28-8-1969 to 31-10-1970.—1st November was Sunday. Workman was not paid for that day hence it was treated as break.

from 2-11-1970 to 5-10-1971 and then 23 days break.

from 28-10-1971.—Appointed as probationer.

From 28-4-1972.—Confirmed.

Admittedly from 6-11-1967 to 5-10-1971 the aforesaid three spells of service were in temporary capacity. As even temporary employees are entitled to earn annual increments if they continue, the applicant was granted annual increments on 6-11-1968 on completion of one year in the first spell, on 28-8-1970 on the completion of one year and another on 28-8-1971 respectively in the second and third spells of the said temporary service. When he was appointed as probationer, these three increments, earned as a temporary employee, were not added to the initial basic salary of the scale of 170-10-200-213-226-14-240-15-285-20-345-25-420-30-480-35-550 after grant of two advance increments for graduation. No retrenchment compensation was paid when the said artificial breaks were given in the temporary spells of the service.

3. The case of the Union is that the annual increments earned during the temporary spells of service should have been added for fixing the initial salary on the appointment as probationer because, on account of non payment of retrenchment compensation, the temporary service should be deemed to have continued without any break till the workman was absorbed in permanent service. As against that the case of the management is that the service as temporary Godown keeper on customer's godowns, (salary payable by the Bank on behalf of those customers) cannot be projected into the permanent service of the Bank. Besides the breaks, which operate against the continuity, the appointment as probationer means a fresh appointment unrelated to the previous temporary spells, hence the salary shall be fixed at the initial stage of the scale giving benefit of two increments for graduation. The fixation so made is thus claimed to be justified.

4. Admittedly from 6-11-1967 to 14-8-1969 the workman had completed more than 240 days of continuous service and had become entitled to proper notice or notice pay and retrenchment compensation. No such payment was made to him. It is the settled law that termination without payment of retrenchment compensation is void. The service shall be deemed to have continued into the second spell without a break.

5. Between the second and third spell the alleged break is of Sunday for which payment was not made. The break should be of a working day. In any case the bank itself did not treat it as a break because it granted annual increment on 28-8-1971 whereas had it been a break, no annual increment could be earned in the third spell because the period from 2-11-1970 to 5-10-1971 was less than a year. Moreover as said above no retrenchment compensation nor notice pay was paid for the break on 1-11-1970.

6. Similarly no retrenchment compensation nor notice pay was paid for the termination of service on 5-10-1971. Thus the temporary service shall be deemed to have continued without break from 6-11-1967 to 27-10-1971 i.e. till his appointment on probation and the dates of annual increments during the temporary service should have fallen each time on 6th of each November.

7. Now the question is whether the annual increments earned in this continuous temporary service shall be counted while fixing the initial salary in the scale on appointment

as probationer. Clause 499 of Shastri Award classifies Godown keepers into two categories viz :

(i) those in charge of the Godown maintained by the Bank.

(ii) those in charge of the Godown of the borrower parties and whose pay and allowances are charged from them.

Sri Rathore was a workman admittedly falling under the second category. It is argued that such a workman is an employee of the borrower party hence when he is recruited to Bank's service as probationer he enters a fresh job under a different employer. As such the question of giving benefit of the increments earned as borrower's employee cannot be granted to him while fixing his salary as on his recruitment as probationer. The argument is based on a misconception. Simply because the salary and allowances are charged from the borrower the Godown keeper does not become his employee. Such Godown keeper is not recruited by the borrower. In fact the borrower has no say in the matter. He is recruited by the Bank. His salary and allowances are fixed by the Bank Awards. He is under the disciplinary control of the Bank and he is posted to look after and safe guard Bank's interest. He can be deputed to look after separate Godowns of several borrowers. He Can be shifted from one Godown to the other under the orders of Bank Manager. Considering all these facts it is clear that he is very much a Bank employee. Charging his pay and allowances from the borrower or proportionately from several borrowers is only a business arrangement. Even as probationer Sri Rathore has been appointed on borrower's account. It will be highly incongruous to say that he is still not a Bank employee. Thus Sri Rathore was a Bank employee even when he was temporary Godown keeper and there was no question of change of employer when he was recruited on a permanent vacancy.

8. As per para 499 of Shastri Award Godown keepers falling in the first category were decided to be placed on permanent list after the expiry of one year of temporary service while as the tenure of the employment depended on the availability of borrowers Godowns etc., the Godown keepers of second category were not granted such a privilege of automatic confirmation. Similarly clauses 20.9, 20.10, 20.11 and 20.12 of Bipartite Settlement of 1970 do make a distinction between a Godown keeper and other employees in the matter of automatic absorption on permanent posts etc., clause 20.13 of the same provides that the Godown keepers falling under the second category, 'shall, if their work has been found satisfactory and if their services can be utilised to look after other Godowns in the same place or other places or in the clerical establishment of the bank, on completion of one year's service, be given preference for absorption in the permanent service of the bank, subject to the bank's recruitment rules, if any.' These provisions thus consider such godown keepers as employees of the Bank and as such provide for their induction into permanent service. Thus the argument of starting of fresh service on account of change of employer and consequent denial of earned benefits of annual increments in the matter of fixation of initial pay at probationer has no force and deserves to be rejected.

9. When a temporary employee is in continuation of his temporary service, inducted into permanent service, either by an automatic process of expiry of certain period as in case of Category (i) Godown keepers or by way of qualifying in regular recruitment in case of Category (ii) Godown keepers, the temporary service projects and continues further, into the permanent service. Such a case of Godown keepers of Cat. (ii) is to be distinguished from the one where his temporary service comes to be legally terminated and there is a gap between such termination and his recruitment to the permanent job of the same description. In the latter case the increments earned during the spell of temporary service lapse with the lapse of service on account of the said termination and gap, while in the former case the increments earned do survive because the service survives under the benign shadow of continuity into the permanent service. This principle of relating back can be deducted from the provision that for the purposes of confirmation the period of probation shall be adjusted towards the temporary service.

10. As in the present case the temporary service shall be deemed to have continued into the permanent service the Bank do give—

- (i) credit to the increments earned during the spell of temporary employment, while fixing the initial salary of the workman in the running scale of Godown keeper; fixation already done is not justified.
- (ii) The workman be paid wages for the periods of the said artificial gaps of $11+1+23=35$ days.
- (iii) Bank do pay the arrears arising from the fact that during the temporary spells of service the date of annual increment shall be deemed to be the 6th day of November of years 1968, 1969 and 1970.
- (iv) The Bank do further pay Rs. 100/- as costs to the Union.

Award is given accordingly.

S. N. JOHRI, Presiding Officer

Dated, the 16th January, 1978. [F. No. L-12012/29/77D.II.A.]

New Delhi, 9th February, 1978

S.O. 484.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Jaipur presided over by Shri S. S. Byas industrial dispute between the employers in relation to the management of Bank of Baroda, Ajmer and their workmen, which was received by the Central Government on the 31-1-78.

CENTRAL INDUSTRIAL TRIBUNAL, RAJASTHAN,

JAIPUR.

Case No. C.I.T. 13 of 1975

REFERENCE

Government of India, Ministry of Labour Notification No. L. 12012/48/75/DII/A dated 10-11-75.

In the matter of an Industrial Dispute

BETWEEN

Shri Anand Swaroop, Cashier, Ajmer Branch, Bank of Baroda.

AND

The Manager, Bank of Baroda, M.I. Road, Jaipur.

APPEARANCE :

For the Union.	... Shri Ram Lal Khandelwal.
For the Manager	... Shri D. P. Sharma.
Dated of Award	5-1-1978

AWARD

By its notification cited above, the Central Government has referred the following Industrial Dispute to this Tribunal for adjudication:—

"Whether the management of the Bank of Baroda is justified in denying the chance of posting of Shri Anand Swaroop, Cashier as Head Cashier in Ajmer Branch of the said Bank from 1971 pending departmental enquiry against him? If not, to what relief is the said workman entitled?"

As the terms of the reference reveal, the dispute is between the Bank of Baroda and its employee Shri Anand Swaroop. It relates to the Bank's action in not posting him as Head Cashier in its Ajmer Branch. The cause of the workman Shri Anand Swaroop was sponsored and espoused by the Rajasthan Bank employees union Ajmer, hereinafter to be referred as the Union.

Succinctly stated, the case set up by the union in its statement of claims is that the concerned workman Shri Anand Swaroop was recruited in the clerical cadre of the Bank of Baroda, somewhere, in 1959. He was posted at the Bank's Ajmer Branch and since then he was working there. He is a member of the Union. As per practice prevailing in the Bank, the appointment to the post of Head Cashier in the Bank takes place on the basis of seniority of employees in a region. In 1967, Shri Anand Swaroop was posted as Cashier. In 1970/71, he was deputed to the Bidasar Branch of the Bank to work as Head Cashier. He then worked as Head Cashier nearly for 8 or 9 months. When he was recalled to Ajmer Branch, he was posted in the clerical cadre. He learnt that one Shri Babu Lal Khandelwal who was junior to him in the cadre was promoted as Head Cashier and was posted in the Bank's Ajmer Branch. The workman raised a protest before the management of the Bank but the attempt proved abortive. His protest brought him in conflict with the management of the Bank. In order to victimise him the management initiated a departmental enquiry against him, on certain charges, which were entirely false, fictitious and fabricated. These charges were purported to relate to his some actions as Head Cashier at Bidasar. The departmental enquiry was not finished in proper time. It is still pending. It has been deliberately kept pending in order to debar the workman from being promoted to the higher post of the Head Cashier. On 1-10-72, again a post of Head Cashier fell vacant and one Shri P. C. Sethi, who was much junior to the workman Shri Anand Swaroop, was promoted and posted as Head Cashier. Shri Anand Swaroop was thus again superceded for no fault of his. It was alleged that the action of the management in not giving promotion to Shri Anand Swaroop and giving promotion to employees junior to him, was mala fide illegal and unwarranted. It has caused much prejudice to the career of Shri Anand Swaroop. The departmental enquiry has been intentionally not finalised as yet. The relief claimed is that the workman Shri Anand Swaroop be promoted to the post of Head Cashier in the Bank's Ajmer Branch w.e.f. May, 1971, with all consequential benefits like the special allowance etc. admissible to Head Cashier.

The claim of the union was resisted by the Bank. It was admitted Shri Anand Swaroop was recruited, in the clerical cadre in 1959. It was also admitted that in 1967, he was transferred to the Cash Department of the Bank. It was denied that the post of the Head Cashier was a post of promotion. It was denied that as per practice, the senior employee in the cash department is promoted and posted to the post of Head Cashier. It was alleged that the post of Head Cashier is not a post of promotion. Of course, this post carries certain additional duties and functions over and above the routine duties, as such a special allowance is paid to the employee deputed to work as Head Cashier. It was admitted that Shri Anand Swaroop was deputed as Head Cashier at Bidasar Branch of the Bank where he worked nearly for 8 or 9 months. It was further denied that when he returned to Ajmer, he was deliberately not posted on the post of Head Cashier. It was submitted that Shri Anand Swaroop committed several acts of commissions and omissions amounting to misconduct while he was posted as Head Cashier at Bidasar. When these lapses were detected, it was thought fit to initiate the departmental enquiry against him. Consequently, a charge sheet was issued to Shri Anand Singh and enquiry Officer was appointed to conduct the enquiry. It was admitted that the enquiry is still pending. But it was denied that it was intentionally kept pending to debar Shri Anand Swaroop from getting the promotion. The postings of Shri Babulal Khandelwal and Shri P. C. Sethi as Head Cashier were not denied. It was also not denied that they were juniors to Shri Anand Swaroop. Objections relating to the union's authority to sponsor the workman's case was challenged. In the end, it was submitted that the workman is not entitled to any relief.

In view of the rival contentions of the parties, the following questions arise for decision:—

- (1) Whether the union was not competent to sponsor and espouse the workman's case and as such the reference is bad?
- (2) Whether the post of Head Cashier is a promotion post or a post of higher cadre?
- (3) If so was it wrongly denied to the workman Shri Anand Swaroop? and

(4) Relief to follow ?

None of the parties examined any witness. They of course filed documents. The admissibility and genuineness of these documents were not challenged by the parties. I shall record my findings on the questions ad seriatim :—

Re—1 : Whether the union was not competent to sponsor and espouse the workman's cause ?

It was contended on behalf of the Bank that the Union was not authorised to espouse the cause of the workman. It was argued that the Rajasthan Bank Employees Union, Ajmer, has nothing to do with the Bank of Baroda. Even if the workman Shri Anand Swaroop was the member of this Union, it was not sufficient to arm the union with the authority to espouse his case. I am not impressed by the logic advanced on behalf of the Bank. The workman's cause was taken up by the Union. This Union is not confined only to the employees of any particular Bank. It extends to the employees of all the Banks in the State of Rajasthan. When the case of Shri Anand Swaroop was taken up by the Union in its hand, it ceased to be an individual dispute. It became a dispute between the bank and the union. It, therefore, assumed the character of an industrial dispute under the Industrial Disputes Act, 1947, hereinafter to be referred to the Act. The Union was, therefore, perfectly competent to sponsor and espouse the cause of the workman Shri Anand Swaroop.

Re—2 : Whether the post of Head Cashier is the promotion-post ?

It was argued on behalf of the Bank that the posts of Cashier, clerks, head clerks, head cashiers etc. belong to one cadre known as clerical cadre. As such the post of Head Cashier should not be taken to be a post of promotion vis-a-vis the post of cashier.

It is true that the clerical staff includes the clerks, cashiers, head cashiers, head clerks etc. There is a uniform scale of pay for all these employees but the post of Head Cashier carries special allowance. Since the post of the Head Cashier carries special allowance, it stands on a higher footing than the other employees. In this sense it is a post higher to the general clerical staff. In the strict sense, the post of head cashier may not be a post of promotion, but it is sufficiently higher than the general clerical staff. It may, therefore, be equated with the promotion-post.

Re—3 : Was the post of Head Cashier wrongly denied to the workman Shri Anand Swaroop ?

There is no controversy between the parties that Shri Anand Swaroop was deputed to Bidasar to work as Head Cashier in 1970. He worked there in that capacity for 8 or 9 months and thereafter he was sent back to Ajmer Branch in May, 1971, where he was posted as a Cashier. It is also not disputed that two cashiers Sarvashri Babulal and P.N. Sethi were junior to Shri Anand Swaroop. Both these junior employees were promoted and posted as Head Cashiers. Thus Shri Anand Swaroop was superseded.

The position taken by the Bank is that Shri Anand Swaroop committed certain big irregularities amounting to misconduct while he was working as Head Cashier at Bidasar. A departmental enquiry was consequently started against him. Since the enquiry has not been completed so far, Shri Anand Swaroop was not found fit to be posted as Head Cashier.

It is true that a department enquiry was initiated against Shri Anand Swaroop in 1971 and it is still pending against him. It is lamentable that the departmental enquiry could not be finished even within a long period of complete seven years. No reasonable explanation was furnished by the Bank for not getting the enquiry completed within such a long period. Sometimes the promotion of an employee is postponed on account of some complaint against him. But this postponement cannot be kept for a long time. When it is not disclosed when the proceedings started and how long they are likely to continue, then it is unreasonable to keep in abeyance consideration of his case for promotion since he can be promoted without prejudice to the investigations which are pending. I am fortified in my view by the observations made in B. Chandra Gupta Vs. Chairman posts & telegraphs Board New Delhi (1970) 2 S.L.R. 284, (Mys. H.C.) Sudhish Chand Anand Vs. Union of India (1973) 1 S.L.R. 979 (Delhi H.C.)

The position that boils down is that the promotion of an employee cannot be indefinitely postponed simply because a departmental enquiry is pending against him. If the enquiry is consuming long time, the employee should be considered for promotion. If the employee is ultimately found guilty of misconduct the promotion granted to him may be withdrawn and he may be relegated to his post.

In the instant case the department enquiry is pending since 1971. Fair play requires that the promotion should not be denied to the workman due to this enquiry which could not be finished for no fault of his.

Learned representative for the Bank contended before me that an employee has no vested right to be promoted. The question of promotion is a managerial function. The tribunal should not interfere in this function of the management. There is not much force in the contention. It is true that promotion by and large, is a managerial function and interference should not be lightly made in the exercise of this discretion. But in the instant case, the things are quite strange. The promotion to the workman was denied or postponed on account of the pendency of some departmental enquiry against him. I have held above that the pendency of the enquiry does not constitute a good reason for not giving promotion to the workman. Justice and fair play require that the case of the workman Shri Anand Swaroop should be taken into consideration for promotion irrespective of the pendency of departmental enquiry against him. If he is promoted and subsequently he is found guilty of the misconduct, the promotion made may be withdrawn and he may be placed on his original post.

Re—4 : Relief to follow ?

For reasons discussed above, I make my award in the following terms :—

The action of the management of the Bank of Baroda in not taking the case of Shri Anand Swaroop into consideration for his posting to the post of Head Cashier, is not justified. The Bank shall take into consideration the case of Shri Anand Swaroop's posting to the post of Head Cashier at the earliest opportunity, whenever the occasion arises. The pendency of the departmental enquiry shall not be taken to be a bar for such consideration.

The parties are left to bear their own cost of this proceeding.

The award be submitted to the Central Government for publication as required by law.

F. [No. L-12012/48/75-D.II.A]

S. S. BYAS, Presiding Officer

R. P. NARULA, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 24 जनवरी, 1978

का. आ. 485.—यतः भारतीय उपचर्या परिषद् अधिनियम, 1947 (1947 का 48) की धारा 8 की उपधारा (4) के साथ पठित धारा 3 की उपधारा (1) के खण्ड (ग) के अधीन कृमारी आर. वगीज, अधीक्षक, लेडी रीडिंग हेल्थ स्कूल, बाड़ा हिन्दू राव, दिल्ली-6 को 17 नवम्बर, 1977 से. डा. (श्रीमती) सरस्वती कृष्णन, जिन्होंने त्यागपत्र दे दिया है, के स्थान पर भारतीय उपचर्या परिषद् का सदस्य नियुक्ति किया गया है।

अतः अब उक्त अधिनियम की धारा 3 की उपधारा (1) का अनुसरण करते हुए केन्द्रीय सरकार एतद्द्वारा भारत सरकार के भूतपूर्व स्वास्थ्य मंत्रालय की 1 दिसम्बर, 1958 की अधिसूचना संख्या सा. का. नि. 1147 में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में "धारा 3 की उपधारा (1) के खण्ड (ग) के अधीन निर्वर्चित" शीर्ष के अन्तर्गत क्रम संख्या 1 और उससे सम्बन्धित प्रविष्टि के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टि प्रतिस्थापित की जाए, अर्थात् :—

"1. कुमारी आर. वर्गीज,
अधीक्षक,
लैडी रीडिंग हेल्थ स्कूल,
बारा हिन्दू राव,
दिल्ली-6"

[सं. वी. 14013/1/77-एम. पी. टी. (पी. एम. एस.)]

विवेक कुमार अग्निहोत्री, उप सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health)

New Delhi, the 24th January, 1978

S.O. 485.—Whereas Miss R. Verghese, Superintendent, Lady Reading Health School, Bara Hindu Rao, Delhi-6 has been elected to be a member of the Indian Nursing Council, under clause (c) of sub-section (1) of section 3 read with sub-section (4) of section 6 of the Indian Nursing Council, Act 1947 (48 of 1947) with effect from 17th November, 1977 Vice Dr. (Smt.) Saraswathi Krishnan resigned ;

Now, therefore, in pursuance of sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Ministry of Health No. GSR 1147, dated the 1st December, 1958, namely :—

In the said notification, under the heading "Elected under clause (c) of Sub-section (1) of section 3", for serial No. 1 and the entry relating thereto, the following serial number and entry shall be substituted, namely :—

"1. Miss R. Verghese,
Superintendent,
Lady Reading Health School,
Bara Hindu Rao,
Delhi-6"

[No. V, 14013/1/77-MPT(PMS)]

V. K. AGNIHOTRI, Dy. Secy.